

RECENT DECISIONS.

tion rent chargeable against a mortgagee in possession, for he has a perfect right to reduce the prior security by the amount of a fair occupation rent. The case of *Platt v. Blizzard*, at p. 46, was a suit for specific performance, and the Master reported that a good title to the lands was *first* shown in his office. Nevertheless, on further directions, Ferguson, V. C., ordered the costs to be paid by the defendant, because the facts showed that the litigation was really about a matter other than the question of title, as to which the plaintiff had succeeded and the defendant entirely failed: in this following the rule laid down in *Monro v. Taylor*, 8 Ha. 70, S. C., in app. 3 McN. & G. 725, that, in such cases, "in deciding who shall pay the costs of the suit, the court must inquire by whom and by what the litigation was occasioned." In *Young v. Huber* (p. 49) the V. C. followed *Peterkin v. Macfarlane*, 4 App. 25 (in which report, however, this point is not referred to), as a precedent for adding, on motion after decree, certain parties as defendants, for the purposes of an injunction. The last case we shall notice is *Lancey v. Johnston* (p. 67), which, as the learned V. C. observes in his judgment, is in many respects very peculiar. It was a motion for an injunction to restrain a lessee from pumping oil from an oil well on the lands leased. The only covenants contained in the lease on the part of the lessee, were to pay rent and pay taxes, and it was silent as to any right on his part to bore for oil. The lessee contended that his real contract was for a purchase in fee, and that he could prove a right, if necessary, to have the document reformed. The V. C., however, held that *prima facie* the lessee had not the right to bore for oil, and granted an injunction until the hearing of the cause.

Passing now to the English Law Reports we have before us the September numbers of the Chancery Division (17 Ch. D. 615-720), and of the Queen's Bench Division (7 Q. B. D. 273-399). The first case in the former, *Dawkins v. Antrobus*, is interesting, as club-

cases generally are. The report comprises both the case in the court below, and in the Court of Appeal. The case of *Labouchere v. Wharncliffe*, M. R. Nov. 28, 1879, came before the M. R., in the interim between the two hearings of *Dawkins v. Antrobus*: in which period also was published an able pamphlet on Club Cases, by a Mr. A. F. Leach (London, Harrison, 1879), which we have before us. At p. 45 this writer says that, the principles that may be deduced by all the cases then decided are as follows:—"A man who becomes a member of a club, binds himself by a written contract, which is to be found in the rules of the club. Those rules are the laws from and by which his rights and duties as a member are to be ascertained and governed. If these rules give (as all club rules do give) an unlimited power of expulsion to the committee or to the general body of the club, the exercise of that power is not a matter for the interference of the law courts; provided that the power be exercised (1) in accordance with the letter and spirit of the rules; (2) in a *bona fide* manner and not capriciously or oppressively; and (3) in a fair and impartial manner in accordance with the ordinary principles of justice." There is nothing in the judgments of the Court of Appeal in *Dawkins v. Antrobus*, which seems to militate against Mr. Leach's deductions. All three Judges protest against the propriety of the courts undertaking to act as Courts of Appeal against the decisions of members of clubs. Some remarks of Brett, L. J., however, in support of his proposition that the courts can properly entertain the question whether anything has been done which is contrary to *natural justice*, although it is within the rules of the club, appear noteworthy. It may also be observed that in his judgment, James, L. J. expresses an opinion that, reading "club" for "trading partnership," every word of the judgment in *Inderwick v. Snell*, 2 Mac. & G. 216, is applicable to the case before him. As a recent Canadian case on a somewhat similar