

principal point discussed was as to the liability of the auctioneer. Romer, J., although of opinion that where an auctioneer only settles the price of goods as between vendor and purchaser, and takes his commission, he is not liable as for conversion if the vendor has no right to sell, yet he held that when, as in this case, the auctioneer receives goods into his custody, and on selling them hands them over to the purchasers with a view to passing the property in them, then he is liable to the rightful owner; his case differing from that of a packing agent or carrier, in that the latter merely purport to change the position of the goods and not the property in them.

After the defendants' case had been closed, an application was made by the plaintiffs' counsel for leave to call as a witness one of the defendants, whom he expected would have been called in support of his (the defendant's) own case. But the learned judge, considering the plaintiffs' counsel had deliberately elected not to call the defendant, in the expectation that he would be called as a witness on his own behalf, and counsel admitting that he had not been misled by any representation that the defendant would be called, refused the application.

One other point was also raised, viz., whether the brother of the *cestui que trust* was bound to indemnify the auctioneer; but the Court held that no promise to indemnify could be implied. The brother had represented himself as acting by the authority of the *cestui que trust* and he had that authority, and the auctioneer knew that the goods were being sold by the latter's direction, and the claim of the auctioneer in this respect was therefore dismissed.

Notes on Exchanges and Legal Scrap Book.

STATEMENT OF COUNSEL NOT EVIDENCE.—Where a prosecuting attorney expressed to the jury his belief that the defendant was guilty, the Supreme Court of Illinois reversed the conviction in part on the ground of his having done so.—*Raggio v. People*.

WHO ARE A FIRST WIFE'S HEIRS?—American cases often contain novel points. Not long since a curious legal riddle was propounded at the Court of Allentown, Pennsylvania. A gentleman married, and his wife dying, left him all her property, merely stipulating that on his death it should revert to "our heirs." The gentleman subsequently married again, and then died himself, whereupon his widow claimed that she was entitled by way of dower to one-third of the property left by the first wife. The next-of-kin, however, disputed this claim, urging that they had a preferential right over a connection by marriage, and the judge supported this view, holding that the husband had only a life interest in his first wife's property, and, therefore, on his death the estate would have to pass to the relations of the first wife, to the exclusion *in toto* of the second wife.—*Law Journal*.