

RECENT ENGLISH DECISIONS.

himself in the service of the employer. On the question of want of evidence of defect in the plant, the Court came to the conclusion that although the ladder was perfect in itself it was not in a proper condition for the purpose for which it was used, and that therefore there was evidence of a defect in the condition of the ways or plant within the meaning of the Act. The mere fact that the deceased knew that the ladder was dangerous, was held not to be evidence of contributory negligence on his part, though it would have been otherwise if it had been shown that he had used the ladder in a negligent manner; and the fact that the defendant knew of the defect was held to exonerate the deceased from giving information to the defendant of the defect.

JURISDICTION—APPEAL FROM MASTER IN CHAMBERS.

Bryant v. Reading, 17 Q. B. D. 128, we think deserving of notice for the observations of Lord Esher which we quote below. On an interpleader summons the Master in Chambers had decided, at the request of one of the parties, to dispose of the matters in dispute in a summary way. The claimant objected that an issue should be directed, and appealed to a judge in chambers, who dismissed the appeal on the ground that the decision of the Master was final. An appeal to a Divisional Court was dismissed, and an appeal to the Court of Appeal was also dismissed on the ground that the decision of the Master, being a summary decision, was not the subject of appeal under *Waterhouse v. Gilbert*, 15 Q. B. D. 569. But Lord Esher, in giving judgment, doubted the propriety of the decision of the Divisional Court, and made use of the following observations:

One point which seemed to be raised was whether there was an appeal from the Master to the Judge in Chambers. This depends on the interpretation of two rules, 8 and 11 of Ord. 57, and two rules, 12 and 21 of Ord. 54. Order 57 r. 8 is this: "The Court or a judge may, with the consent of both claimants, or at the request of any claimant, if, having regard to the subject-matter in dispute, it seems desirable to do so, dispose of the merits of their claims and decide the same in a summary manner, and on such terms as may seem just;" and Rule 11 of the same Order declares when such decision is to be final. Now, it is argued that, inasmuch as by Ord. 54 r. 12, the Master has the

authority and jurisdiction of a judge at chambers, interpleader not being one of the matters excepted in the rule, his decision, like that of the Court or a judge, is not open to appeal. I think this argument may well be contested on the ground that the order which deals with the decision of a Court or judge, and makes that decision final and conclusive, does not apply to the decision of a Master. Order 54 r. 12 gives the Master the authority and jurisdiction of a judge in such cases; but that does not make his decision that of a Court or a judge while Rule 21 of the same Order is explicit that any person affected by any order or decision of a Master may appeal therefrom to a judge at chambers.

PUBLICATION OF ADVERTISEMENTS—CONTEMPT OF COURT.

In *Brodrick v. Brodrick*, 11 P. D. 66., a co-respondent in a divorce suit, immediately after the service of the citation, caused advertisements to be published denying the charges made in the petition, and offering a reward of 100 guineas "for such information as will lead to the discovery and conviction of the instigators of such charges." Upon motion of the plaintiff it was adjudged that the publication of the advertisements was a contempt of court, as tending to deter witnesses from coming forward, and an attachment was ordered; but the writ was allowed to remain in the registry for a fortnight to enable the respondent to make a proper apology; and on an affidavit of the co-respondent being subsequently produced disclaiming any intention to interfere with the course of justice, and expressing his regret, the attachment was rescinded on payment of costs.

VENDOR AND PURCHASER—CONDITIONS OF SALE—RESCISSION OF CONTRACT.

In *re Terry and White*, 32 Chy. D. 14, the first of the cases in the Chancery Division to which we direct attention, was an application under the Vendors and Purchasers Act. A parcel of land, described in the particulars of sale as containing 4 a. 3 r. 37 p., was sold by auction subject to special conditions of sale, one of which stated: "3. Each lot is believed, and shall be taken to be correctly described as to quantity and otherwise . . . and the respective purchasers . . . shall be deemed to buy with full knowledge of the state and condition of the property as to repairs and otherwise, and no error, misstatement or mis-