

ment under different masters entitled both masters to set up the defence of common employment, were disapproved.

ILLEGITIMATE CHILD — CUSTODY OF ILLEGITIMATE CHILD — RIGHTS OF MOTHER OF ILLEGITIMATE CHILD.

In *Barnardo v. McHugh* (1891), A.C. 388, the House of Lords affirmed the decision of the Court of Appeal (1891), 1 Q.B. 194 (noted *ante* p. 103), and hold that, in determining who is to have the custody of an illegitimate child, the Court in exercising its jurisdiction with a view to the benefit of the child will primarily consider the wishes of the mother. Their lordships, however, sustained the ruling of the Court of Appeal, that a judgment upon the motion for a *habeas corpus* for the custody of an infant was appealable, and not precluded by *Cox v. Hakes*, 15 App. Cas. 506.

INSURANCE, MARINE—COLLISION—VESSEL UNDER TOW—COLLISION WITH TUG.

*McCowan v. Baine* (1891), A.C. 401, was an action on a marine policy of insurance to recover damages sustained through a collision. The policy provided that "if the ship hereby insured shall come into collision with any other ship or vessel," whereby the insured becomes liable to pay any sum of money, the insurer would pay a certain portion of such sum. While the insured vessel was in tow, her tug came in collision with another vessel, whose owners recovered damages both from the owners of the insured vessel and of the tug. The House of Lords affirmed the decision of the Scotch Court of Session (Lord Bramwell dissenting), that the collision with the tug was a collision with the insured vessel within the meaning of the policy. See *The Quickstep*, *ante* p. 10.

INFORMAL WILL—WILL DRAWN BY BENEFICIARY—WILL SIGNED BY MARK—PROBATE—ONUS PROBANDI

*Donnelly v. Broughton* (1891), A.C. 435, was an appeal from the Court of Appeal of New Zealand to the Judicial Committee of the Privy Council. The action was brought in the Probate Court of the colony, and the Colonial Court of Appeal had refused probate of a will propounded by the appellant. The will in question was an informal one, and was drawn by the appellant, who was a beneficiary thereunder, and it was signed with a mark and witnessed by two of the appellant's relatives. The Judicial Committee adopted the principles applied by the English Court of Probate to such wills as laid down by Sir John Nichol in *Paske v. Ollat*, 2 Phill. 323, where, after stating that when the person who prepares the instrument and conducts the execution of it is himself an interested person, his conduct must be watched as that of an interested person, he goes on to say: "The presumption and *onus probandi* are against the instrument; but as the law does not render such an act invalid, the court has only to require strict proof, and the *onus* of proof may be increased by circumstances, such as unbounded confidence in the drawer of the will, extreme debility in the testator, clandestinity, and other circumstances, which may increase the presumption even so much as to be conclusive against the instrument." The circumstances surrounding the execution of the will in question were such as