Lord Hardwicke long before its enactment; in which he held that although a Court of Equity would grant specific performance as against a tenant in tail who had entered into a contract to bar the estate tail, yet it would not do so as against the issue in tail, for they take by a title paramount *in formam doni.*

PRACTICE—AMENDMENT OF PLEADING ALLOWED, NOTWITHSTANDING AN ORDER STRIKING OUT PART SOUGHT TO BE INSERTED WAS UNREVERSED.

The case of *Kurtz* v. *Spence*, 36 Chy. D. 770, seems to lay down a novel and curious precedent in practice. An application was made to Chitty, J., on 12th August, 1886, to strike out part of a statement of claim on the ground that the question raised thereby could not be properly tried in the action. Chitty, J., granted the order, which was not appealed. Subsequently, on the 21st July, 1887, an opinion was expressed in the Court of Appeal that the question raised by the passage struck out could properly be tried in such an action as the present. The plaintiffs then applied to Kekewich, J., to amend their statement of claim by inserting the clause struck out by the order of Chitty, J., which application was refused. The plaintiffs then applied for leave to appeal from the order of Chitty, J., and also appealed from the order of Kekewich, J. The Court of Appeal refused leave to appeal from the order of Chitty, J., but offered to dismiss the action without prejudice to the plaintiffs bringing another; but on the appeal from the order of Kekewich, J., the court allowed the amendment, Fry, L.J., dissenting.

COMPANY—WINDING UP—DIRECTORS—CREDITOR—PAYMENT OF DIVIDENDS OUT OF CAPITAL—DELUSIVE BALANCE SHEETS—AUDITOR, LIABILITY OF.

The case of *Leeds Estate Building Co.* v. *Shepherd*, 36 Chy. D. 787, will, we fancy, be read with a good deal of interest in these days of insolvent banks and companies. It certainly opens up a very serious field for thought, for those who assume the responsible positions of directors and auditors of joint stock companies. It is the old story of directors leaving everything to the auditor and manager, and the manager making out delusive balance sheets, and the auditor and directors certifying them; payments of dividends out of capital, assets over-estimated, followed by the inevitable crash. Stirling, J., held that directors were not justified in leaving everything to the auditor and manager, and were personally liable, jointly and severally, to make good all dividends paid out of capital, and also all sums paid thereout to the directors for remuneration and to the manager in the shape of bonuses, which they were not entitled to unless the company paid a certain dividend; and he also held that it was the duty of the auditor not to confine himself to verifying the arithmetical accuracy of the balance sheets, but that he was bound to inquire into their substantial accuracy, and to ascertain that they contained the particulars specified in the articles of association, and were properly drawn so as to contain true and correct representations of the company's affairs; and that as the improper payments by the directors were the natural consequence of the breach of duty on the part of the manager and auditor, they were also liable in damages to the amounts so paid. The par-