

A certified copy of *part* of the field notes of the original survey is admissible in evidence.

The defendant's counsel told the jury that a verdict in favor of the plaintiff for any sum would carry costs. *Quære*, as to the right to make such statement; but *semble*, that the objections to a verdict for the plaintiff founded upon it, would apply equally to a verdict for defendant. — *Carrick v. Johnston*, 26 U. C. Q. B. 69.

## SIMPLE CONTRACTS & AFFAIRS OF EVERY DAY LIFE.

### NOTES OF NEW DECISIONS AND LEADING CASES.

**LETTERS PATENT — INVENTION — NOVELTY.**—The plaintiff obtained a patent for a platform pump, constructed upon the principle and for the purpose of raising water for animals to drink from wells by their own weight and act, the specification claiming such principle as his invention. He sued for the infringement of this patent.

It appeared that an inclined platform working upon a fulcrum led up to the trough, and that being depressed by the weight of the animal when near the trough, it forced down the piston rod and plunger, with which it was connected, thus driving the water up a pipe into the trough. There was nothing new either in the different parts or in the principle on which they produced their effect, but the novelty, if any, was in the combination.

*Held*, that the patent, not being for such combination, but for the principle, could not be sustained.

*Semble*, that the utilizing the instinct of the animal to seek water was the only novelty, and that this could not be the subject of a patent.

The infringement complained of was a pump for which defendant had obtained a patent, and it was objected that this patent was an answer to the action until set aside; but *semble*, clearly not. — *Merrill v. Cousins*, 26 U. C. Q. B. 49.

**SLANDER OF PERSON AS TO DISCHARGE OF HIS DUTIES.**—The declaration alleged that it would have been a great breach of the prosecutor's duties, as a warrener and game-keeper, to kill foxes; that he was employed on the understanding that he would not do so, and that the defendant falsely and maliciously spoke of him, as such warrener, that he had destroyed foxes. The declaration then averred special damage.

*Held*, that the declaration disclosed a good cause of action, independently of special damage, as it set forth that it was the duty of the plaintiff in his employment not to do that with which he was charged, and alleged actual pecuniary damage to the defendant in his business or employment.

The Court will not take judicial notice that it is the duty of a gamekeeper not to kill foxes; but the rule as to words spoken of a man in his office or trade is not necessarily confined to those offices or trades, of the duties of which the Court can take judicial notice. — *Foulger v. Newcombe*, 15 W. R. 1181.

**SLANDER—PRIVILEGED COMMUNICATION.**—Defendant, a Government detective, knowing that one M. was in partnership with the plaintiff, informed him that the plaintiff was connected with a gang of burglars which defendant had been the means of breaking up, and put him upon his guard. *Held*, that the communication was privileged, and, there being no evidence of malice, that the plaintiff was properly nonsuited. — *Smith v. Armstrong*, 26 U. C. Q. B. 57.

**DISCHARGE OF MORTGAGE—DEFECTIVE AFFIDAVIT—REGISTRY, C. S. U. C., CH. 89, SEC. 59.**—The Registrar having recorded a certificate of discharge, upon an affidavit which did not state the place of execution, as required by the statute, — *Held*, that though he should properly have refused to register it, yet, being registered, it was effectual as a reconveyance of the legal estate to the mortgagor. — *Magrath v. Todd*, 26 U. C. Q. B. 87.

**BEQUEST FOR ILLEGAL PURPOSE AND FOR A LEGAL PURPOSE—BEQUEST TO A NAMED CHARITY.**—A testatrix bequeathed £1,000 £3 per cents. to a rector and churchwardens upon trust out of the dividends to keep a certain grave in repair, and to apply the residue for the benefit of the poor.

*Held*, that the rector and churchwardens were entitled to take the whole for the relief of the poor, freed from the obligation of keeping the grave in repair.

*Chapman v. Brown*, 6 Ves. 404, commented on.

A bequest to a named charity which is dissolved before the testator's death lapses, and the sum bequeathed will not be applied, *cy près*. — *Fisk v. The Attorney-General*, 15 W. R. 1200.

**EVIDENCE — ENTRY AGAINST INTEREST —** An account written by a deceased person credited