

ENGLISH CASES.

EDITORIAL REVIEW OF CURRENT ENGLISH DECISIONS.

(Registered in accordance with the Copyright Act.)

DISCOVERY — PRACTICE — PRIVILEGE — DOCUMENTS IN PREVIOUS ACTION — SECONDARY EVIDENCE.

In *Calcraft v. Guest* (1898) 1 Q.B. 759, the Court of Appeal discuss the alleged conflict between the cases of *Minet v. Morgan*, L.R. 8 Chy. 361, and *Wheeler v. Le Marchant*, 17 Ch. D. 675, and hold that rightly understood both cases are consistent with each other. In this case, after the trial certain documents connected with a prior litigation in reference to the same matter between the plaintiff's predecessor in title and third parties were discovered, and the defendant obtained copies thereof. The documents belonged to the plaintiff, and were privileged from production. Judgment having been given in favour of the plaintiff, the defendant appealed, and on the appeal claimed to read the copies he had taken of the documents in question. For the plaintiff it was argued that as the documents were privileged the copies were inadmissible. The Court of Appeal (Lindley, M.R., and Rigby and Williams, L.JJ.) were of opinion that though the privilege remained, and that although the plaintiff could not be compelled to produce the originals, nevertheless the defendant being in a position to give secondary evidence of their contents, was entitled to do so, and that such evidence was admissible.

CHOSE IN ACTION — ASSIGNMENT — MORTGAGE — ABSOLUTE ASSIGNMENT WITH PROVISION FOR REDEMPTION — ASSIGNMENT OF PART OF DEBT — JUDICATURE ACT 1873 (36 & 37 Vict., c. 66), s. 25 s.-s. 6 — (R.S.O. c. 58 (5), (6).) — PARTIES.

Durham v. Robertson (1898) 1 Q.B., 765 turns upon the construction of the Eng. Jud. Act, s. 25, s.-s. 6 (from which Ont. Jud. Act, s. 58 (5) (6) are taken), and which enables the assignee of a chose in action claiming under an absolute assignment in writing to sue in his own name for the debt assigned. The question was whether the assignment relied on was abso-