

L. J. WRIGHT V. CHARD. March 26.  
*Mesne rents—Relief at law and in equity—Jurisdiction—Trustee—Committee of lunatic—Account.*

Where a person who holds under two titles which are inconsistent with each other, takes upon himself to decide under which he will act and decides wrongly, the rights which others would have had if the proper course had been taken are not altered or defeated. A trustee for a married woman who was also committee of the estate of a lunatic by the decision of the Court declared to be tenant in tail of certain estates, had received the rents of the same estates and paid them over to the married woman who was deceived by him to be entitled to them.

*Held*, that the representatives of the tenant in tail were entitled to recover from the trustee as committee the mesne rents so received and handed over.

Where equitable conduct entitles a person to equitable relief, that relief is not gone because the remedy at law is gone.

V. C. W. WARD V. SHAKESHAF. March 20.  
*Foreclosure—Disclaimer—Costs.*

Where a judgment creditor is made a defendant to a suit and is aware of the fact and disclaims by answer, he is not entitled to his costs. Where a creditor defendant puts in an answer and subsequently by affidavit disclaims he is not entitled to his costs. Where an assignee or the mortgagor is made defendant to a suit and undertakes to appear, but before appearance disclaims but is still continued on the record and puts in his answer, he is entitled to his costs. Where after bill filed but before services of a copy of the bill a defendant undertakes to appear, and disclaims he is entitled to his costs.

#### COMMON LAW.

C. P. DUNCLIFF ET AL V. MALLOT.  
DUNCLIFF ET AL V. BIRKEN ET AL.

*Patent—Distinct part of—Assignment of—Infringement.*

If a separate and distinct part of a patent be assigned the assignee may sue in respect of an infringement of such separate and distinct part without joining as plaintiffs persons interested only in the other part of the patent.

Q. B. WRIGHT V. STAVERT. April 24.  
*Statute of frauds—Interest in land—Contract for board and lodging.*

The appellant agreed orally to pay to the respondent for the board and lodging of himself and man in the respondent's house, and accommodation for his horse in the respondent's stable, £200 a year from a day specified, a quarter's notice to be given on either side; no particular rooms were assigned to the appellant, and he never commenced to reside in the respondent's house, but gave notice of his intention not to perform the contract.

*Held*, that this was not an agreement relating to an interest in land within the fourth section of the statute of frauds, and need not therefore be in writing.

Ex. DICKSON V. RIGHT. Jan. 19.  
*Consideration—Marriage settlement—Illegitimate child.*

The gift of an estate to an illegitimate child under a marriage settlement, is good against a purchaser under 27 Eliz., ch. 4.

Ex. WISE V. BIRKENSHAW. April 28.  
*Garnishee—Common Law Procedure Act.*

The issuing of a writ under the 64th section of the Common Law Procedure Act against a garnishee who refuses to pay money which has been attached, is matter of discretion for the Judge which he need not exercise without grounds to suspect the conduct of the garnishee.

Ex. PRICE V. TAYLOR ET AL. April 23.  
*Promissory note—Friendly Society—Note binding on trustees who sign.*

A promissory note was made on behalf of a benefit building society by the Trustees and Secretary in the following form:

“Midland Counties Building Society No. 3,  
“Birmingham, March 12, 1858.

“Two months after demand in writing, we promise to pay Mr. Thomas Price the sum of one hundred pounds, with interest after the rate of six per cent. per annum, for value received.

(Signed) “W. R. HEATH, } Trustees.  
“JOHN TAYLOR, }  
“W. D. FISHER, Secretary.”

*Held*, that the persons signing the note were personally responsible.

C. C. R. REG. V. JOHN DANBERRY HIND. April 28.  
*Evidence—Dying declaration.*

A dying declaration is only admissible in evidence where the death of the deceased is the subject of the charge, and the circumstances of the death the subject of the dying declaration.

Upon an indictment for using instruments with intent to procure abortion, the dying declaration of the woman was held inadmissible.

C. C. R. REG. V. CHARLES HALLIDAY. April 28.  
*Evidence—Husband and Wife—Admissibility of a husband's evidence when the criminality of the wife is involved.*

The prisoner was indicted in one count for obtaining money from trustees of a savings bank by pretending that a document produced to the bank by E., the wife of T., had been filled up by his authority; and in another count for a conspiracy between the prisoner and E. to cheat the bank; but E. was not indicted. The evidence of T. having been received in support of the prosecution, the prisoner was acquitted on the count for conspiracy, and convicted on the other.

*Held*, that the evidence of T. was properly received and the conviction good.

Q. B. GUNNER V. FOWLER. May 8.  
*Arbitration—Special case—Proceedings in error.*

A cause was referred by consent to arbitration with a special provision that neither party should take proceedings in error on any matter relating to the arbitration. At the request of the parties, the arbitrator made his award in the form of a special case for the opinion of the Court, and in accordance with this opinion the judgment was to be entered up. The Court gave their opinion in favor of the defendant, whereupon the plaintiff took proceedings in error.

*Held*, that sec. 32 of the Common Law Procedure Act, 1854, which gave power to bring error on a special case, did not apply to such a case as this, which must be taken to be such a special case as is contemplated by sec. 5 of the same act.

*Held, also*, the parties were bound by their agreement not to take proceedings in error.

C. P. HOLDER V. SOULBY. April 30.  
*Lodging-house keeper—Liability of in respect of goods stolen from lodgers.*

The plaintiff hired apartments in the defendant's house, and while there had some of his goods stolen; and the declaration alleged that the defendant did not take due and proper care of his house, by means of which dishonest persons obtained access to it and took the plaintiff's goods; to which the defendant demurred on the ground that the declaration did not allege the defendant to be a common innkeeper, and therefore did not disclose any duty or liability on the part of the defendant.

*Held*, that the declaration was bad, and that the defendant as a lodging-house keeper was not liable.