in such circumstances there is a right in the subject to make an election, as to which country he will continue a subject of, were dissented from, the Court being of opinion that allegiance is, in the language of Lord Coke, "*Duplex et reciprocum ligamen*," which the subject cannot by his mere election divest himself of.

SEDUCTION—PLEADING—ALLEGATION AS TO PROCURING ABORTION—APPLICATION TO STRIKE OUT PARAGRAPH.

In *Appleby* v. *Franklin*, 17 Q. B. D. 93, the defendant applied to strike out from the statement of claim in an action for seduction of the plaintiff's daughter, an allegation that the defendant had administered noxious drugs to the daughter for the purpose of procuring abortion. The application was based on the ground that the allegation in question disclosed the commission of a felony for which the defendant ought first to have been prosecuted. But it was held by a Divisional Court (Huddleston, B. and Wills, J.) following *Osborn* v. *Gillett*, L. R. 8 Ex. 88, that the application could not be granted, inasmuch as the plaintiff was not the person upon whom the felonious act was committed, and had no duty to prosecute.

DISCOVERY OF DOCUMENTS—SUFFICIENCY OF AFFIDAVIT.

In *Nicholl* v. *Wheeler*, 17 Q. B. D. 101, which was an action for the recovery of land, the Court of Appeal, following *Jones* v. *Monte Video Gas Co.*, 5 Q. B. D. 556, and *Hall* v. *Truman*, 29 Chy. D. 307, refused to permit interrogatories to be administered for the purpose of contradicting the defendant's affidavit which alleged that certain documents were privileged from production on the ground that they supported his title, and did not contain anything impeaching his defence, or supporting the plaintiff's case.

ARBITRATION—APPLICATION TO EXTEND TIME FOR MAKING AWARD—C. L. P. ACT, 1854, s. 15—(R. S. O. c. 50, s. 219.)

An attempt was made, *In re Mackenzie*, 17 Q. B. D. 114, to induce a Divisional Court (Grove and Stephen, JJ.) to enlarge the time for making an award under the following circumstances: By a Local Government Act passed subsequent to the C. L. P. Act, 1854, provision was made for referring certain matters to arbitration; but the Act expressly provided that the time for making an award under the Act "shall not in any case be extended beyond the period of two months from the date of the submission," this time had elapsed, and it was held that the provisions of the Common Law Procedure Act, 1854, s. 15, would not authorize an enlargement of the time.

MASTER AND SERVANT—EMPLOYERS LIABILITY ACT—(49 VICT. c. 28 ONT.)

Webbin v. *Ballard*, 17 Q. B. D. 122, is a case under the Employers' Liability Act, from which the 49 Vict. c. 28 (O.) was taken. The action was brought by the widow of a deceased person who had been employed as a fireman in the defendant's brewery. In the engine room, at some distance from the floor, was a valve to turn on steam to a donkey engine. This valve could only be reached by means of a ladder placed against a lower pipe, but by reason of a bend in this pipe the ladder (though in itself perfect), being without hooks or stays, was unsafe for the purpose for which it was used. The defendant had himself seen the ladder so used. The deceased was found dead in the engine room, having been apparently killed in consequence of the ladder slipping while he was upon it. A verdict having been found for the plaintiff, the defendant moved for a new trial, on the ground that there was no evidence of a defect in the plant, for which the defendant would be liable under the Act; that the accident arose from the improper use of the plant, and that the deceased was guilty of contributory negligence. The motion was refused. The Court (Mathew and A. L. Smith, JJ.) points out that the Act has practically swept away the defences of "common employment," and "that the servant had contracted to take upon himself the known risks attendant upon the employment," which were previously open to an employer when sued by his servant for injuries sustained in the course of his employment, and that a servant or his representative suing under the Act, is now virtually in the position of any one of the public. But while of opinion that the two defences above mentioned are taken away from the employer, the Court was of opinion that the Act gave him a defence which did not theretofore exist, when sued for a defect in the ways, plant or machinery, viz., that the servant knew of the defect and did not communicate it to the employer, or to some other person superior to