

repairs were not made and in consequence of the defective state of the floor the wife sustained an injury. The action was tried by Phillimore, J., with a jury who rendered a verdict for the plaintiff and assessed the wife's damages at £75, and those of the husband at £25, and judgment was entered accordingly. The defendant appealed on the ground that the defendant was under no liability to the wife, and the Court of Appeal, (Collins, M.R., and Mathew, and Romer, L.J.J.,) sustained the appeal and dismissed the action of the wife. Mathew, L.J., however, dissented, thinking the action could be supported on the ground that she was induced by the defendant to occupy the premises with her husband on the representation that he would repair the floor which he never intended to make good, and he thought the principle on which *Langridge v. Levy*, 2 M. & W. 519, (followed in *George v. Skivington*, L.R. 5 Ex. 1), was decided should apply.

CONTRACT—ILLEGALITY—AGREEMENT BY PARTIES THAT COSTS OF LITIGATION SHALL IN ANY EVENT BE PAID OUT OF AN ESTATE—INFANT CO-CONTRACTOR.

*Prince v. Haworth* (1905) 2 K.B. 768 was an action to enforce an agreement for the payment of certain costs out of an estate. The agreement was made in the following circumstances: The plaintiff had brought a probate action to establish a will under which he was residuary legatee; the defendant Haworth set up an earlier will under which he was executor. During the progress of this litigation the parties agreed that whichever will was established as the true will, the costs of all parties of the litigation should be paid out of the estate whether the Court so ordered or not. One of the defendants was an infant, and the Court refused to sanction the agreement on his behalf and ordered the plaintiff to pay the defendant's costs of the probate action. The plaintiff therefore now sued the adult defendant Haworth to enforce the agreement for the payment of the costs out of the estate, and it was contended on the defendant's behalf, that the agreement was illegal and invalid, but Lawrence, J., held that there was nothing illegal in the contract and that it was no answer to the plaintiff's claim that the defendant, being merely executor, could not perform it without the authority of the Court, but that he was personally liable to make it good; and the mere fact that his co-defendant was an infant on whom the promise was not binding made no difference; and he therefore gave judgment against the defendant for the amount claimed.