

VANSICKLE v. JAMES—KELLY, J.—DEC. 14.

Way—Assertion of Right of User—Street—Grant of Right—Prescription—Way of Necessity—Evidence—Trespass—Injunction—Damages—Costs.]—Action for trespass to land. The acts constituting the alleged trespass were not denied; the issue was in respect of the plaintiff's ownership of the land in question to the exclusion of right of user by the defendant; and the plaintiff's right to succeed depended upon whether the defendant was entitled to use the land on which he entered, either as a public street, or by virtue of a grant of right of way, or by prescriptive right, or as a way of necessity. KELLY, J., after reviewing the whole evidence, said that a careful consideration of the whole case led to the conclusion that the plaintiff was entitled to succeed. The plaintiff asked for damages, as well as an injunction, but in his testimony admitted that the damage to his fences and crops did not exceed \$3, which covered the restoring of the fences pulled down by the defendant, for the restoration of which he claimed a mandatory order. The finding on the evidence must be that the defendant was not entitled to the use or right of passage over the lands in question. Judgment for the plaintiff for an injunction and \$5 damages, with costs on the County Court scale, without set-off. S. F. Washington, K.C., and L. Awrey, for the plaintiff. J. W. Lawrason, for the defendant.

RE MERCURIO AND JEWETT—MIDDLETON, J.—DEC. 15.

Dower—Equitable Estate of Husband—Vendors and Purchasers Act.]—Motion by the vendor in an agreement for the sale of land, under the Vendors and Purchasers Act, for an order declaring that the vendor can convey free from dower. The learned Judge said that in no view of the case was the vendor at any time possessed of more than an equitable estate in the land; and, therefore, if he conveyed, his wife could have no dower. W. J. Clark, for the vendor. A. W. Langmuir, for the purchaser.

HERRINGTON v. CAREY—MASTER IN CHAMBERS—DEC. 17.

Default Judgment — Order Setting aside — Indulgence — Terms—Costs—Promissory Note—Action on—Defence—Threat of Criminal Prosecution.]—Motion by the defendants Lilly Carey and Zoe C. Carey to set aside a judgment entered against