

V. C. W. **MAYER v. SPENCE.** June 12, 19.

Practice—Action at Law—Affidavit

In a suit to restrain the infringement of patent rights, the plaintiff is entitled without moving for an injunction, to apply for leave to try his right at law, such application being supported by an affidavit showing a *prima facie* title in the plaintiff to the patent, and alleging infringement by the defendant.

V. C. W. **RE SKINNER'S TRUST.** July 7.

Will—Specific Bequest—Failure of Purpose.

Testator, by a codicil, revoked a bequest in his will of £1000 to be applied in printing a M.S. work, with certain directions, and left the M.S. in trust for his grandson F., that the trustees might provide for the publication of the M.S. to the best advantage for the interests of F., so as to contribute towards raising a fund to assist him at the University. "Should F. die before the book is printed, and it becomes profitable, towards the printing of which I bequeath £1000, and C. has a boy, I wish him to inherit all the benefit that may be derived from this bequest."

The book had never been published as it was not thought likely to succeed.

Held, that the primary object of the codicil being benefit to F., he was entitled to the £1000, although the particular purpose to which it was to be applied had failed.

COMMON LAW.

Q. B. **BAYLES v. LUNDY.** April 15

Sale of goods—Statute of Frauds—Acceptance—Evidence.

Defendant being the holder of a delivery order for goods, sent his servant to the warehouseman to lodge the order and fetch a portion of the goods, which were removed to the defendant's premises.

Held, an acceptance of the goods by the defendant within the 17th section of the Statute of Frauds.

EX. **IN RE. FERNANDEZ.** April 19

Commitment for contempt of Court—General warrant—Habeas Corpus.

The Courts of Assize are Superior Courts, and as such have authority to commit by general warrant.

The Court of Exchequer, therefore, will not issue a writ of *habeas corpus* to bring up the body of a prisoner committed for contempt by a judge at the Assizes, under a warrant which does not set forth the particulars of the offence.

C. C. R. **REG. v. TITE.** April 27.

Embezzlement—Commercial Traveller—Clerk or servant—Payment by commission, with liberty to take orders for others.

A person engaged by a manufacturer as a commercial traveller, to be paid by commission, with liberty to take orders for others, is a servant.

C. C. R. **REG. v. JAMES BRAMLEY.** April 27.

Larceny—Obtaining possession of goods by a trick—False pretence.

It was the course of business at a Colliery where coal was sold by retail, to take the carts when loaded to a weighing machine in the Colliery yard, where they were weighed and the price of the coal paid. The prisoner having gone to the Colliery with a fraudulent intent, a servant of the prosecutor, upon the prisoner saying he wanted a load of best soft coal, loaded prisoner's cart with soft coal and went away, leaving him to take it to be weighed and pay for it. The prisoner then fraudulently covered over the soft coal with slack, an inferior coal, and by this trick and by saying that the coal in the cart was slack, induced the weighing clerk, who did not know that the cart contained the soft coal, to weigh it as slack and charge the prisoner accordingly.

Held, that the prisoner had obtained possession of the soft coal by a trick, and that he was properly convicted of larceny.

EX. C. **CLARKE v. WRIGHT.** Feb. 8.

Consideration—Marriage settlement—Limitation in favor of illegitimate child—27 Eliz., ch. 4.

The gift of an estate to an illegitimate child under the provisions of a marriage settlement, is not fraudulent and void against a purchaser under 27 Eliz., chap. 4.

C. P. **THE T. J. W. AND SHIP BUILDING CO. v. ROYAL MAIL CO.** April 27.

Payment into Court—Order for particulars of appropriation of sums paid into Court.

In an action against ship owners for building and extra expenses in building two ships for them, the defendants paid a sum of money into Court in satisfaction of plaintiffs claim. *Held*, that plaintiffs were not entitled to an account of the particular items of their demand to which the said sum was paid into Court.

Q. B. **REG. v. THE GUARDIANS OF THE CAMBRIDGE UNION.**

Quarter Sessions—Appeal—Part heard—Power to adjourn to a subsequent Sessions.

A Court of Quarter Sessions has power to adjourn the hearing of a part heard appeal to a subsequent Sessions

Q. B. **CARR v. COOPER.** May 7.

Error in fact—Amendment of record.

When an infant had appeared as defendant in an action by attorney instead of by guardian, and a verdict was found against him, and error was brought, upon motion to set aside the writ of error and amend the record.

Held, that the Court could not amend the record by substituting an appearance by guardian for an appearance by attorney; the Court cannot, in the exercise of its power of amendment, render the record false.

Q. B. **POW v. DAVIS.** May 7.

Breach of warranty of authority to contract as agent—Measure of damages.

When a person has contracted with a supposed agent, who in fact had not authority to contract, he cannot claim indemnity from such supposed agent for damages which did not flow directly from such breach of warranty.

EX. **HAMER ET AL v. KNOWLES AND ANOTHER.**

Mines, working of—Rights to support of land over mines—Damages to reversion.

In 1828, one F. conveyed certain lands in fee to one J. S., excepting mines and veins of coal under said lands. At the time of the conveyance there were no buildings on the land. In 1833 a loom shed, engine house, steam engine, mill, &c., were erected. This engine, &c., was worked until 1841. In that year and until 1849, the buildings were enlarged. In 1842 the hereditaments so conveyed to J. S., were conveyed to McC. in fee. McC., by will, devised the legal estate to the plaintiffs S. and M. In 1851 the plaintiffs S. and M. conveyed the same to the plaintiff H. The defendants are lessees under F., and took coals from the mines in 1849 and 1850, which caused the land on which the mill, &c., stood to subside. The foundations of the mill buildings were damaged, and the buildings drawn towards the coal workings. The mining operations which caused the damage, were carried on under land near but not immediately adjoining the plaintiff's property. The building and machinery placed on the land did not contribute to cause the subsidence of the ground.

The Plaintiffs S. and M., and the plaintiff H., brought actions against the defendants in 1855

Held, that as the buildings did not contribute to the subsidence, the plaintiffs were entitled to damages for injury to them by the defendants' wrongful act in causing the ground on which they stood to subside.