

HIGHWAY—Continued.

authority. Authority under The Highway Act, 1890, 59 Vict. c. 21, s. 22, to sell the work of removing an obstruction upon a public road is not limited to a case where the owner of the obstruction is unknown. *WINSLOW v. DALLING*, 608

HUSBAND AND WIFE—*Wife compelled to live Separate and Apart from her Husband—Restraint of Husband's Marital Rights in Wife's Separate Property.* A married woman being the owner in fee at the time of her marriage of a lot of land, was compelled to live separate and apart from her husband, not wilfully and of her own accord. *Held*, that while such separation continued she was entitled to an injunction restraining her husband from enjoying any marital rights in the property, or interfering with its use and occupation by her. *JOHNSTON v. JOHNSTON* 164

—Administratrix, suit by—Joinder of husband 335
See LEGACY.

ILLEGALITY—*Agreement—Defence of Illegality not Raised by the Pleadings—Stifling Competition at Public Sale—Agreement between Intending Purchasers not to bid Against each Other—Purchase for Joint Benefit.* Though the defendant has not pleaded the illegality of an agreement by his answer, if its illegality is disclosed by the pleadings the Court will not enforce it. An agreement between two intending purchasers of Crown land under licenses to two lots, neither wanting the whole of the lots, not to bid against each other at their public sale, but that one should bid them in for their joint benefit, is not illegal. *IRVING v. WILLIAMS* 217

—Agreement—Public auction—Stifling competition 406
See REGISTRY LAWS, 2.

—Restraint of trade—Physician—Sale of practice—Covenant to discontinue practice 487
See PHYSICIAN.

INFANT—*Adoption of—Illegitimate Birth—Consent of Parents.* Under the provisions of the Supreme Court in Equity Act, 1890 (53 Vict. c. 4), the Court cannot grant leave to adopt an illegitimate

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child without the consent of both its parents. *In re C. F., AN INFANT*... 313
(See now Act 60 Vict. c. 25, s. 2.)

2.—*Custody of—Parent and Child—Right of Father—Welfare of Infant—Agreement to give Custody to Grandmother.* To defeat the right of a father to the custody of his child, as against its maternal grandmother, his habits and character must be open to the gravest objections. The Court must be satisfied, not merely that it is better for the child, but essential to its safety or welfare in some very serious and important respect, before it will interfere with the father's rights. A father cannot, as a rule, by mere agreement, deprive himself of his right to the custody of his child, or free himself from his parental obligations. *Scmble*, If, in consequence of an agreement by a father to give up the custody of his child to a third person, the latter has incurred pecuniary liability, the Court will protect him. *In re ANNIE E. HATFIELD, an Infant* 142

3.—*Custody of—Parent and Child—Right of Father—Welfare of Infant—The Supreme Court in Equity Act, 1890 (53 Vict. c. 4), ss. 182, 183.* In determining whether the custody of an infant child ought to be given to the mother as against the father, under sections 182 and 183 of the Supreme Court in Equity Act, 1890 (53 Vict. c. 4), the Court will take into consideration the paternal right, the marital duty of husband and wife so to live that the child will have the benefit of their joint care and affection, and the interest of the child. If both the parents have disregarded their marital duty in the above respect, the Court will award the custody of the child to the father, unless it is satisfied that it would not be for the child's welfare. *In re ARMSTRONG, an Infant* 208

4.—*Sale of Infant's Interest in Land—Proceeds not Exclusively for Infant's Benefit—The Supreme Court in Equity Act, 1890 (53 Vict. c. 4), s. 175.* Section 175 of the Supreme Court in Equity Act, 1890 (53 Vict. c. 4), refers to the exclusive interest of an infant in land, the proceeds of which on its sale will be solely for the infant's benefit. Application was made under the above section for an order for the sale of an infant's