

Chan.]

NOTES OF RECENT DECISIONS.

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hearing; restraining an action of ejectment against the purchaser.

CLINE V. THE MOUNTAIN VIEW CHEESE FACTORY.

Demurrer—Injunction—Parties—Pleading.

A bill was filed against a Joint Stock Company (limited), to restrain the infringement of a patent, to which certain officers of the company were made parties, and the bill alleged that "the defendants" were committing the acts complained of, and prayed relief against "the defendants." A demurrer on the ground that the officers were improperly made parties, was overruled with costs, these officers being personally charged with committing the acts complained of, and relief being prayed against them.

COTTON V. VANSITTART.

Fraudulent Assignment—Life policy.

A person in embarrassed circumstances, proposed to assign a policy on his life, in trust, first to secure certain advances, and then for the benefit of his wife. The advances were made, and the assignment executed, but no trust in favor of the wife was declared, or was required by the lender as a condition of the loan. Subsequently the trustee made further advances to the settlor, and in his evidence stated that the settlor might have absorbed the whole amount, if he (the trustee) had seen fit to advance it. After the death of the settlor, all the advances were paid, and the residue of the insurance moneys invested for the benefit of the widow.

Held, that so far as the interest of the widow was concerned, the settlement was void, as against creditors.

ROSS V. ROSS.

Will—Construction of—Revocation in Equity.

A testator devised his real estate and personal property to two persons; after making his will, testator contracted to sell the real estate, but the contract was never carried out; and after his decease in October, 1862, the parties interested under the contract agreed to rescind the same, which was done accordingly.

Held, that the contract operated in equity as a revocation of the will, as regarded the beneficial interest in the real estate; that the interest in the contract passed to the legatees under the residuary clause; that the devisees being also legatees of the personal estate were entitled to the land, and that it did not go to the heirs-at-law.

HAMILTON & P. D. R. CO. V. GORE BANK.

Corporation—Corporate Seal—Sheriff's Poundage.

A bank having executions against a railway company in the hands of the Sheriff, the secretary of the company, in order to avert a seizure of a quantity of railroad iron, signed a letter, agreeing that the bank, out of moneys coming to their hands from certain garnishee proceedings, taken by the bank against debtors of the company, might retain "a sufficient amount fully to cover all your solicitor's costs, charges and expenses against you, or against you and us; as between attorney and client, or otherwise; as well as the costs, charges, and expenses of your bank, of what nature or kind soever, and after the payment of such, in the second place to hold the surplus, if any, to apply on your executions against us." This letter was signed without any authority from the board of directors of the company, although two members of the board were aware of it, and one of them—the Vice-President of the company—authorised it.

Held, that this was not such an act as the officers of the company were authorised in the discharge of their duties to perform; and that, although the bank granted the time asked for, they could not enforce payment of the amounts stipulated for.

A Sheriff is only entitled to poundage on the moneys actually passing through his hands. Where, therefore, the parties to a suit arranged outside the Sheriff's office for the payment of \$3,000 on account of an execution in his hands, and the plaintiffs in the cause paid his poundage on that amount, as well as the moneys actually paid to the Sheriff, the Court refused to allow them to charge the amount against the defendants.

RICE V. GEORGE.

Tenants in common—Rents—Improvements.

A tenant in common being in actual occupation of the joint estate, forms no ground for charging him with rent; it would be otherwise, however, if he had been in the actual receipt of rent from third parties.

One of several tenants in common, or joint tenants, making improvements on the joint estate, is not entitled to be paid therefor, unless on the other hand he consents to be charged with occupation rent.

Semble That one tenant in common selling timber off the joint property is not chargeable with sums realized therefrom.