The Legal News.

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There has been some difference of opinion in our courts as to the right of the higher tribunal to interfere with the discretion of the lower in the matter of costs, where nothing else is complained of. It seems to be pretty well settled now that a case may be taken to Review, and the judgment reformed, on a mere question of costs; and although the Court of Appeal does not encourage appeals for costs, the majority of the judges have never laid down a cast-iron rule forbidding such appeals, where the Court below appears to have acted on a wrong principle. In England, the Court of Appeal does recognise the right of appeal for costs, and in a recent case, *Pool* v. *Lewin*, noted in the *Law Journal*, the Court restored the plaintiff his costs, of which he had been deprived by the judge at the trial, no misconduct of any kind being shown on his part. The principle on which the English Court acted is laid down by the late Master of the Rolls (Jessel) in *Cooper* v. *Whittingham*, 49 Law J. Rep. Chan. 752, in these terms:—"Where a plaintiff comes to enforce a legal right, and there has been no misconduct, omission, or neglect on his part which should induce the Court to deprive him of his costs, the Court has no discretion, and cannot take away the plaintiff's right to costs. There may be misconduct of many sorts. For instance, there may be misconduct in conducting the proceedings, some miscarriage in the procedure, or some oppressive or vexatious conduct on the plaintiff's part or in his mode of conducting the proceedings, or other misconduct which will induce the Court to refuse costs; but where there is nothing of the kind the rule is plain and well settled, and is as I have stated it."

A telegram appeared in the papers lately about a man who came out to America in order to marry his aunt. The *Law Journal* (London) says:—"The man who is said to have travelled 4,000 miles in order to marry his aunt did not gain much by his journey. No doubt he managed to obtain a marriage ceremony which he could not have obtained in England without concealing his relationship; but although he fled to Wisconsin, his domicile was still in England. If his taste had been a little more mature, and he had chosen his great-aunt, there would have been no difficulty whatever."

That milk is milk, after the cream has been taken off, has been decided by the English Queen's Bench Division in *Lane* v. *Collins*, a note of which appears elsewhere. The process of skimming may not be an adulteration, but it affects the consumer more seriously than a slight addition of water to fresh milk. The buyer, it would appear, in order to be protected, must ask for "unskimmed milk."

The *New York Herald*, of Dec. 25, refers to a decision of the General Term of the Supreme Court in that city, which, it remarks, if allowed to stand, will subject wharf owners to a very stringent liability. A boat loaded with sand reached a dock at Port Chester during the night. The sand was consigned to the owner of the wharf. The captain asked a watchman on the dock where he should land. The latter replied that he did not know, but pointed to a part of the dock where he said sand had been unloaded before. The captain landed at this place, and when the tide went out the boat settled on the bottom and was badly damaged by reason of the ground being uneven. An action for damages was brought against the owner of the dock. The defence was that it was not the business of the watchman, nor had he any authority, to give directions about the landing of boats, and that in this case the captain had moored at a place where the defendant was not in the habit of receiving sand. The Court says:—"But the fact that the watchman was on the premises, in their apparent charge and possession, was a direct indication that he so far represented the defendant as to be authorized to indicate what might properly be done by a vessel arriving at the wharf in the defendant's business during the night time, when no other