Q. B. REECE V. CHAFFERS.

Practice—Compulsory reference—Action on attorney's bill—Matter of account—Defence on ground of negligence or special agreement.

In an action by one attorney against another to recover the amount of his bill for business done as an agent, there being a dispute as to items, and also a defence set up on the ground of negligence, and a special agreement that the business should be done for agency charges, and a judge having made an order at Chambers to refer the matter to the arbitration of the Master, under the compulsory powers of the Common Law Procedure Act, this Court refused to disturb the order, the Master being the proper tribunal in such a case; and it not having been made to appear that the dispute as to items was so entirely distinct from the other matter of defence, that the latter could well and conveniently be tried by a jury.

Q. B. ASHPITEL, EXECUTOR OF JAMES PETO, V. BRYAN

Bill of Exchange—Drawing and indorsing in name of dead or non-existing person—Declaration—Traverse of indorsement—Defence—Consideration—Delivery of goods belonging to intestate—Taking out administration.

Goods, the property of an intestate, were delivered to the defendant by a brother of the deceased, who assumed to have possession of them; and the defendant accepted a bill for the price, drawn in his presence and with his assent and at the desire of the brother, in the name of the deceased, and at the same time indorsed in that name to the brother and delivered to him. The brother's executor sued the defendant on the bill which was described in the declaration, not as drawn by the brother in the name of the deceased, but as drawn and indorsed by the deceased, and the defendant denied the indorsement so alleged.

Held, that he could not be allowed to deny it; and that even although the plaintiff had joined issue on the traverse, the plaintiff was entitled to the verdict thereon.

Held also, there was good consideration, and that the plaintiff was entitled to recover.

Q. B. GORTON V. HALL.

Practice—Error—Executors—Action against—Death before verdict—Entry of judgment—Alterations of judgment by Court of Error—Effect of as to time—Entry nunc pro tunc—Jurisdiction of court below to alter its judgment after judgment in Error.

An action having been brought against one of two executors, he died after the Assizes opened, and before trial. The verdict was for the plaintiff, and the judgment was entered (*de bonis propriis*) within two terms afterwards. But error was brought by the defendant's executor, and the Court of Exchequer Chamber altered the judgment by entering it *de bonis testatoris et si non, &c.*, costs, instead of a judgment *de bonis propriis*. The plaintiff, as it now appeared on the record that the original defendant had died, and the final judgment was beyond the two terms after verdict, applied to this Court to amend its own judgment in accordance with that of the Court of Error, and to allow him to abandon the proceedings in Error on payment of all costs. The Court, doubting whether it had power to grant such a rule, and, also, whether it was necessary, refused it, as the position of the parties had altered.

Q. B. LARCHIN V. ELLIS.

Arbitration—Award—Setting aside—Matter in difference not considered—Application to arbitrator for time to obtain and examine a witness—Materiality of witness' evidence—Exercise of arbitrator's discretion.

When an application has been made to arbitrators to afford time to obtain and examine a witness who is absent, and they have honestly (even although erroneously) exercised their discretion as to the materiality of his evidence, and have refused the postponement applied for, their award will not be set aside on that ground; and, *semble*, that a case of legal misconduct must be made out against the arbitrators to induce the Court to take that course; or that, at all events, there must be clear proof that substantial injustice has been suffered by the party applying.

Q. B. DAVIS V. BOWEN.

Attorney and client—Country client and London agent—Death of country client—Revocation of agent's authority.

A country attorney, being retained to conduct an action (on behalf of an infant) in which he obtained a verdict, employed, in the latter stages of it, a London attorney as his agent, and died before judgment was signed. The London attorney wrote to the client in the country, stating that he had acted as the agent, and proposing to continue so to do; and, receiving no answer, taxed costs, and signed final judgment without the knowledge of the client. Meanwhile the client, without any notice either to him or to the defendant, had employed another attorney. The Court refused a rule to set aside the taxation, the plaintiff's remedy, if any, being against the attorney.

Q. B. COLE V. THE HULL DOCK COMPANY.

Practice—Venue—Cause of Action—Expense.

Where the cause of action arose in the country, and the venue had been changed from London thither.

Held, that it was no ground for bringing it back to London that as sittings there would be far more frequent than the assizes, it would be more convenient for the plaintiff to try there than in the country, and the expense would be not much greater.

Q. B. ALLEN V. CLARK, EXECUTRIX.

Attorney and client—Liability of Attorney for negligence—Retainer for purchaser to complete a purchase—Duty of Attorney to make enquiry into title of seller.

An attorney had been employed by the plaintiff to complete a purchase of a leasehold property which the plaintiff had made at an auction, on conditions which stipulated that he should take "an under lease," and not demand an abstract of vendor's title nor enquire into the title of the "lessor." He made no enquiries, but simply got a pretended lease executed by the seller, who had sold fraudulently, without any title whatever; the lease itself not even reciting any title; and the pretended seller giving actual possession, and not having any deed or document in his possession to adduce as any evidence of title, had he been asked for such evidence; and the purchaser was evicted by the real owner.

Held, that there was evidence of negligence on the part of the attorney; and

Held also, that the proper measure of damage was the sum the plaintiff had to pay to obtain a title with interest and without any deduction for rent, as he was liable over to the true owner for mesne profits during the time he had occupied as owner.

CHANCERY.

L. C. GLEAVES V. PAINE.

Married woman—Mortgage—Surety for husband—Bankruptcy—Equity to a settlement.

A married woman being seized jointly with her husband, as of real estate, of which she was seized before her marriage, but of which no settlement had been made, joined with him in a mortgage in fee of the said estate, in order to secure her husband's debt, subject to a proviso for redemption by way of reconveyance to her use. The husband became bankrupt and the wife filed a bill by her next friend, against the assignees, alleging that the mortgaged property was her only means of support, and praying that it might be exonerated from the charge out of the husband's estate in bankruptcy, and that her husband's interest in the mortgaged property, or the equity of redemption thereof, might be settled on her and her children.

The assignees waiving their right to redeem, the wife was declared to be entitled to redeem the mortgage, and with her husband's consent, a settlement for her and her children was directed; but

Semble, a married woman would not be entitled to an equity to a settlement of such an estate, as against an adverse party.