

RECENT ENGLISH DECISIONS.

said number on the back, is written or marked, by which the voter can be identified, shall be void and not counted." The court, composed of Coleridge, C.J., and Hawkins and Mathew, J.J., were unanimously of opinion that the ballot papers were not invalid. Hawkins, J., delivered the judgment of the court, and the gist of the decision may be collected from the concluding words of his judgment, where he says:

If the Legislature had intended that the absence of the official mark from the face of the ballot paper should avoid the vote, it is impossible to suppose that in declaring in the second section what votes shall be void and not counted, it would have confined itself to the mark on the back. It would be difficult to suggest a case to which the maxim so often quoted during the argument, "*Expressio unius est exclusio alterius*," could be more justly and fittingly applied.

MARRIED WOMAN—CRIMINAL PROCEEDINGS AGAINST HUSBAND—DEFAMATORY LIBEL.

A further contribution to the law relating to married women is to be found in *The Queen v. Lord Mayor of London*, 16 Q. B. D. 772, in which a married woman sought to compel the Lord Mayor of London to proceed to hear and determine an application made by her for a summons against her husband for defamatory libel, alleged to have been published by him of and concerning the appellant. The application was attempted to be sustained on the ground that the libel was an injury to the married woman's property, that her reputation was property; but the court (Mathew and A. L. Smith, J.J.) were unable to accede to that argument. They held that what was damaged, if anything, was the fair fame of the applicant, and that that was not "separate estate."

VENDOR AND PURCHASER—RESCISSION OF CONTRACT—MISLEADING CONDITIONS.

In *Nottingham Patent Brick Co. v. Butler*, 16 Q. B. D. 778, the Court of Appeal affirmed the decision of Wills, J., 15 Q. B. D. 261, noted *ante*, vol. 21, p. 330.

WRIT OF SUMMONS—SERVICE OF MEMBER OF FOREIGN FIRM WITHIN JURISDICTION.

An important point of practice was determined by a Divisional Court, composed of Matthew and Smith, J.J., in *Polluxfen v. Sibson*, 16 Q. B. D. 792. The defendants were a foreign firm, and one of the members of the

firm happening to be in England on business he was served with a writ of summons in an action against the firm, which was the ordinary eight day writ. Wills, J., set aside the service as irregular; but his decision was reversed, the court holding that the rule enabling one member of a partnership to be served with a writ on behalf of his firm, applied to a foreign firm as well as an English partnership.

WILL—CONSTRUCTION—ILLEGITIMATE CHILDREN.

Passing now to the cases in the Chancery Division, the first to call for notice is *In re Haseldine, Grange v. Sturdy*, 31 Chy. D. 511, in which a majority of the Court of Appeal overruled Kay, J., upon a question of construction of a will and codicil. The point in controversy was whether a gift to "children" could be construed to mean illegitimate children. Kay, J., and Cotton, L.J., held that it could not, but Bowen and Fry, L.J.J., were of a different opinion. The testator, it appeared, was seized with paralysis in the house of his sister-in-law, M. A. L., and remained there until his death. M. A. L. had been married seven years but had no legitimate children; she had, however, three children by her husband born before her marriage with him, aged sixteen, thirteen and eleven, who were treated as legitimate, and with whom the testator was intimate. In October, 1860, having become worse, the testator was advised by his medical attendant to make his will, and made one containing the following dispositions: "I give and bequeath the following legacies to the following persons" (after which followed gifts of legacies to persons named) "and to each of the children of M. A. L. the sum of £5 for mourning, the same to be paid into the hands and on the receipt of M. A. L., their mother, for them, notwithstanding her coverture and their minority." On 5th August, 1881, two days before his death, he made a codicil by which he bequeathed £400 on the death of an annuitant "unto and equally between all the children who shall then be living of M. A. L., share and share alike;" and confirmed his will, except as varied by the codicil. M. A. L. was forty-four years old when the will was made. Cotton, L.J., was of opinion that the rule laid down by Lord Selborne in *Dorin v. Dorin*, 7 H. L. 568,