Recent English Decisions.

Interlocutory injunction—Conspiracy to effect an unlawful object.

The case of *The Mogul Steamship Co.* v. *McGregor*, 15 Q. B. D. 476, is in reality an equity case, notwithstanding it appears in the Queen's Bench Division. The decision is upon an application for an interlocutory injunction to restrain the defendants from conspiring together, and with other persons unknown, by undue means, to prevent the plaintiffs obtaining cargoes for their steamers from certain ports in China to England. The motion was heard before Coleridge, C.J., and Fry, L.J. It appeared that the defendants had formed a combination or "ring," and had issued circulars which had the effect of injuring the plaintiffs' custom; but the Court, being of opinion that no irreparable damage was shown, and furthermore, that the injury complained of had been going on for six years past, held that an interlocutory injunction should not be granted. The case, however, is remarkable for the expression of opinion it contains on the subject of the law relating to conspiracies. At page 483 Lord Coleridge, who delivered the judgment of the Court, says:

"It is certainly conceivable that such a conspiracy—because conspiracy undoubtedly it is—as this might be proved in point of fact; and I do not entertain any doubt, nor does my learned brother, that if such a conspiracy were proved in point of fact, and the *intuitus* of the conspirators were made out to be, not the mere honest support and maintenance of the defendants' trade, but the destruction of the plaintiffs' trade, and their consequent ruin as merchants, it would be an offence for which an indictment for conspiracy, and, if an indictment, then an action for conspiracy, would lie. It seems to both of us to be within the principle of an old case decided by Lord Mansfield, *The King* v. *Eccles*, 1 Lea. C.C. 274-276. . . . So far as I know the case itself, for the principle of law which it defines, is as good law now as when Lord Mansfield enunciated it, and would be upheld at the present day."

Buying pretenced title to land—32 Henry viii., c. 9 s. 2—(R. S. O. c. 98 s. 5).

Readers of the Reports for the last few years must have frequently come across the case of *Lyell* v. *Kennedy*, an action for the recovery of land, which has given rise to numerous interlocutory applications on the subject of discovery. We now come to the same litigants, but in this case their position is reversed, and it is *Kennedy* v. *Lyell*, 15 Q. B. D. 491. The subject-matter of dispute, however, is practically the same. It appears from the report that Kennedy acted as the agent of one Ann Duncan in collecting the rents of a valuable estate in Manchester. Ann Duncan died in 1867 intestate as to this property, and, as was supposed, without heirs. Kennedy continued after her death to receive the rents, which he paid into a bank to the account of "the executors of A. Duncan." In March, 1880, Lyell, claiming to be the heir of Ann Duncan, commenced an action against Kennedy to recover the property in question. In July, 1880, Lyell discontinued this action, and subsequently obtained a conveyance from three ladies who were believed to be the true heirs-at-law of Ann Duncan, and it was in respect of this transaction that the present action was brought as being the buying of "a pretenced title" within the 32 Henry VIII., c. 9 s. 2. On the 4th January, 1881, the defendant, Lyell, brought a second action to recover the land, relying on the title acquired under the deed in question, and this action is still pending. Denman, J., before whom the case was argued, held that the purchase of the title of the heirs by Lyell was not within the Act, and he dismissed the action. He held that it was necessary, not only for a plaintiff to show that the title purchased by the defendant was fictitious, or bad, but that the defendant when he purchased it knew it to be so. That since the 8 & 9 Vict. c. 106 (R. S. O. c. 98 s. 5), the sale of a right of entry was valid, notwithstanding the 32 Hen. VIII., c. 9, and that the mere fact that a person other than the vendor had been in possession for a period sufficient to bar the right of the vendor under the Statute of Limitations did not render the sale obnoxious. He says on this point:

"I have come to the conclusion that the mere fact—even if it be the fact—that the right of the coparceners was statute-barred at the time of the purchase does not necessarily render it a 'pretenced,' or fictitious title within the statute of Hen. VIII., so as to make the buyer liable to an action for penalties. He only knows that the time has elapsed which will enable the party in possession to set up the statute. I apprehend that the party in possession might always refrain from setting up the statute; and it cannot be said therefore