

must be read as containing such stipulations or a reformation if necessary, made therein.

Robinson, Q.C., for the plaintiffs.

J. K. Kerr, Q.C., for the defendants.

WRIGHT V. SUN MUTUAL LIFE INS. CO.
WRIGHT V. LONDON LIFE INS. CO.

Insurance—Seals—Equitable Replication—Reformation—Estoppel—Suicide—Exposure to obvious danger—Nature of accident—Evidence.

The Acts of incorporation of the Sun Mutual and London Life Insurance Companies required their policies to be under seal. The policies issued by the above companies were on the printed forms of policies issued respectively by these companies, and which they had been accustomed to and had been using for some time previously, and which were signed and countersigned as required by the Acts, but were not under the corporate seals of the companies, but in the attestation clause in the Sun company, though not in the London company, the policy purported to be so sealed. To the claims on their policies the defendants pleaded respectively non est factum, and that defendants did not insure or promise, &c.

The Court under the circumstances of the cases directed equitable replications to be added, setting up the facts entitling the plaintiff to equitable relief; and either for a reformation of the policies by the addition of the companies' seals, or that they should be debarred from setting up such defence.

The defendants also set up as grounds of defence, that the death of the insured was occasioned by suicide, or by exposure to obvious or unnecessary danger by walking on a railway track, or that the manner of death was unknown or incapable of direct or positive proof, which under the terms of the policy avoided defendants' liabilities.

Held, that the defence of suicide or exposure was not established; and the cause of death sufficiently appeared.

M. C. Cameron, Q.C., for the plaintiff.

Bethune, Q.C., for the defendants.

O'CONNOR V. MCNAMEE.

Bill of costs—Action on—Agreement not to exceed fixed amount—New trial.

In this case, which was an action on a bill of costs, the question was whether an agreement had been made by an attorney that the costs of certain chancery proceedings should not exceed a certain amount which had been paid. The jury found the agreement to have been made, and entered a verdict for the defendant. A new trial was moved on the ground that a discussion

which had been allowed to take place at the trial as to the magnitude of the bill had influenced the jury in their finding.

The court refused to interfere, Gwynne, J., doubting that the discussion had not the effect contended for, the jury having been expressly told that the fact of the making of the agreement was the only question for their decision.

Ferguson, Q.C., and *T. Arnoldi* for the plaintiff.
Monkman for the defendant.

CHANCERY.

The Chancellor.]

[Sept. 4th.

CURRY V. CURRY.

Statute of Frauds—Parol Evidence.

The father of the plaintiffs and the defendant were brothers, and the defendant obtained a deed in his own name of 100 acres of land. It was shown distinctly that the defendant had at one time made a deed to his brother of some land, although the defendant, after his brother's death, denied having given any deed, but on the hearing he admitted giving a deed of an adjoining property for which no patent had issued, although the defendant's name had been entered in the books of the Crown Lands Department as an applicant for purchase. It was shown that a box containing the deeds in reference to the property had been stolen, and the deeds had never been seen since. The Court, under the circumstances, notwithstanding the denial of the defendant, *held* that the plaintiffs were entitled to an account of the purchase money received by the defendant upon a sale of the property, and ordered the defendant to pay the costs to the hearing.

The Chancellor.]

[Sept. 4th.

FORRESTER V. CAMPBELL.

Mortgages.

The plaintiff was the holder of two mortgages, and in June, 1870, obtained a decree of foreclosure, whereby he was declared entitled to priority over one F., who was the holder of a fourth mortgage thereon, and after the decree the plaintiff bought up the third mortgage, which was, prior to that, held by F.; and he had also, before the date of the decree, procured from the mortgagor a release of the equity of redemption.

Held, on appeal from the Master, following the decisions of *Barker v. Eccles*, 18 Gr. 440—523, and *Hart v. McQuesten*, 22 Gr. 133, that the Master had correctly found the plaintiff entitled to priority over F. in respect of all the three mortgages.