DIARY FOR JULY.

1. Tues... Dominion Day. Master and Reg. in Chy., Clks. and Dep. Clks. Crown, make ret. of fees. Co. Treas. to ret. to Local Treas. arr. taxes on occupied lands. Last Day for Co. Co. to equalize Asses. Rolls. Long Vacation begins.

6. SUN... *4th Sunday after Trinity.*

7. Mon.... Co. Court Term begins.
Heir and Devisee Sittings begin.

10. Thurs.. Last day for Master and Reg. in Chy., Clks. and Dep. Clks. Crown, to pay over fees to Provincial Treasurer.

12. Sat.... County Court Term ends.

13. SUN... *5th Sunday after Trinity.*

15. Tues... *St. Swithin.* Co. Judge to comp. Appeals for Court of Revision.

20. SUN... *6th Sunday after Trinity.*

22. Tues... Heir and Devisee Sittings end.

27. SUN... *7th Sunday after Trinity.*

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THE
Canada Law Journal.

Toronto, July, 1873.

The *Law Times* notes the statistics we recently published with reference to the results of trial by judge and by jury upon the number of convictions, and concludes by thinking it somewhat remarkable, after looking at the figures, that offenders ever elect to be tried by the Judge.

A question which has given rise to much discussion in the purliens of Doctors' Commons, has recently been for the first time expressly decided by Vice-Chancellor Little, of the Lancaster Chancery Court. He held with some hesitation that where a testator appoints his wife to be his executrix during her widowhood, and she dies without having married again, that her executor represents the testator: *Mayers* v. *Langton*, 17 Sol. Jour. 537.

Mr. Edwin James, who has been refused re-admitttance to the Bar of England, is about to be received into the ranks of the attorneys, unless the examiners refuse to examine him, when he must apply to the Court of Queen's Bench to compel them to do so. The *Law Times* says a gross indignity has been perpetrated upon the profession by the solicitor to whom Mr. James has been articled, by the insertion of the name of the latter, still an articled clerk, in the corner of the card of the solicitor.

On a trial for an assault, a surgeon, in giving his evidence, informed the Court, that on examining the prosecutor, he found him suffering "from a severe contusion of the integuments under the left orbit, with a great extravasation of blood, and ecchymosis in the surrounding cellu-

bas," and that there was also "considerable abrasion of the cuticle." The Judge asked, "You mean, I suppose, that the man had a black eye." The witness answered "Yes," whereupon his lordship remarked, "they why not say so at once?"

Our valued correspondent at Halifax has sent us a judgment delivered by the Supreme Court of Nova Scotia, on the "Insolvent Act of 1869." The point is doubtless of great importance in that Province, where judgments can be registered so as to bind lands in the same way as *was* the law in this Province. But owing to the very proper repeal of that law by our Legislature, the decision is not of importance here. The main question raised in the case was as to the right of a *bonâ fide* judgment creditor, as against an assignee in insolvency, where the judgment was duly registered in the proper office within thirty days of the defendant's assignment under the Insolvent Act. The Court held that as the judgment was duly registered the Act did not destroy the preference obtained by the judgment creditor.

From the *Irish Law Times*, we observe that the Lord Justice Christian has been from the Bench agitating the same question as that which was some time ago discussed in the columns of the Toronto papers touching the scope of the proper duties of the Chief Clerks in Chancery, who hold a position somewhat analogous to that occupied by the Judges' Secretary. The Lord Justice in rather unmeasured terms, but with true Irish *verve*, has denounced the practice of the judges delegating any portion of their judicial work to inferior officials. The Lord Justice's strictures, which have created immense and not altogether satisfactory excitement in the profession, will no doubt work a cure of the evil complained of. As will be remembered the difficulty in this Province was overcome by the passing of an act of Parliament changing the name of "Secretary" to that of "Referee in Chambers," and defining the duties, which as *quasi* judge in Chambers he might properly undertake.

The *Saturday Review* has recently indulged in some very uncomplimentary remarks on the Bar in England. It says that there are few really good lawyers now at the Bar, and still fewer good speakers, and that the great run of lawyers are content to scramble on with mouthsful of law picked up from day to day, as occasion requires, trusting to text books and luck for getting up the necessary information, when a call happens to be made for it. The common oratory of the Bar is said to be a deplorable exhibition, reaching a high average standard when it is just articulate, and does not too violently outrage the rudimentary laws of grammar. Of the judges even, it is said that there is hardly one, who, to say nothing of elevated thoughts and literary subtlety, can even turn a decent sentence. English writers *ought* to know something of English people, but it sometimes happens that they know as little about them as they do about affairs in the Colonies; we shall therefore charitably suppose that the writer in the "Reviler" was suffering from dyspepsia, or is one of the many thousand "briefless," as yet unknown to, or unappreciated by the lower branch of the profession, the employers and paymasters of those above them.

We recommend to the notice of our readers the scathing remarks in a recent number of the *Canadian Monthly* touching the scandalous observations of Mr. Caleb Cushing on Sir Alexander Cockburn, who dissented from the judgment of his colleagues in the Geneva arbitration. It is evidently written by one who knows our cousins well, and—appreciates them.

THE WILLS ACT, 1873.*

(CONTINUED.)

The statute next prescribes, by section 7, the mode in which a will shall be made. The most important feature of this section is the abolition of the distinction, which has heretofore existed, as to the ceremonies of execution between wills of real and personal estate.

The forms necessary to the due execution of wills of real estate were prescribed by the Statute of Frauds, which required that the will should be in writing and be signed by the testator, or by some one in his presence and by his express direction, and should be attested and subscribed in the presence of the devisor by three or four credible witnesses. The provisions of the Statute of Frauds which relate to the execution of wills are still in force in this Province, though they have been modified by 4 Wm. 4, c. 1, s. 51, (Con. Stat. U. C. c. 82, s. 13), which provides that "any will affecting land executed after the sixth day of March, one thousand eight hundred and thirty-four, in the presence of, and attested by, two or more witnesses, shall have the same validity and effect as if executed in the presence of, and attested by three witnesses; and it shall be sufficient if such witnesses subscribe their names in presence of each other, although their names may not be subscribed in presence of the testator." The reader can make himself fully acquainted with the effect of this section and its bearing on the old statute by a perusal of the judgment of the Court in the case of *Crawford* v. *Curragh*, 15 U. C. C. P. 55, in which the whole subject is reviewed. The provisions of the Statutes of Frauds, and of 4 Wm. 4, c. 1, which relate to wills, are repealed by the new Act.

The present state of the law of this Province, regarding wills of personal estate, may be described in the words used by the Real Property Commissioners regarding the state of the law in England, prior to the passing of the Act 1 Vict., c. 26. In their fourth report on the law of real property, at p. 15, the Commissioners observe that: "The informality of wills of personal estate has often been the subject of complaint. The question, whether a paper is or is not testamentary, has been the occasion of a large proportion of the most vexatious and expensive law suits which have arisen on wills." And again at p. 7, "Wills of personal estate in writing might be made in any form and without any solemnity. It was not necessary that even the name of the testator should appear; any scrap of paper or memorandum in ink or in pencil, mentioning an intended disposition of his property, was admitted as a will, and would be valid although written by another person, and not read over to the testator, or even seen by him, if proved to have been made in his lifetime according to his instructions. If a will was imperfect, and it appeared upon the face of it that something more was intended to be done before it was finished, yet it was valid so far as it appeared to be complete, if it was proved that the testator's intention was arrested by sickness or death."

In *Re Nelson, McLennan* v. *Wishart*, 14 Grant 200, a fair specimen occurs of the extraordinary documents which the Courts admit to probate as wills of personalty. On one scrap of paper is written, "I leave the whof (*sic*) of my property to William Brown, Townhead, Arbuthnot by Fordoun, Scotland, $2,000, William Brown, Townhead, Arbuthnot by Fordoun, Scotland." On another scrap is written, "I give Peter Crann $500 for himself." These papers were admitted to probate as constituting the will of one Alexander Nel-

* A mistake occurred in the last paragraph of this article at p. 170, owing to the transposition of a line. The words "also *Davidson* v. *Sage*, not yet reported," should follow the reference to *Wright* v. *Garden* in the line but one previous. —Eds. L. J.

son. This instance is an ample justification of the strong language used by the Commissioners regarding wills of personal estate.

The new Act requires that *all* wills shall be executed in the same manner, and prescribes particularly the mode of execution. The latter part of section 7 has been adopted from the English statute 15 & 16 Vict., c. 24, which was passed to provide for many cases in which wills had been held to have been imperfectly executed under 1 Vict., c. 26., sec. 9.

It will be observed that the new Act provides that the witnesses must be *present at the same time*, and in this respect it differs from the Statute of Frauds, under which it was held that the testator might acknowledge his signature to the witnesses singly, and at different times. (See *Crawford* v. *Curragh*, *ante*.)

Section 9 provides that a soldier in actual military service, or a mariner or seaman being at sea, may dispose of his personal estate as he might have done before the making of the Act. But for this section, the provision contained in section 7 that "no will shall be valid unless it shall be in writing," would have entirely abolished nuncupative wills. This class of wills was placed under various restrictions by the Statute of Frauds, but the provisions of that act in this respect were disapproved of by the Real Property Commissioners, and by the 9th section of 1 Vict., c. 26, to which the 7th section of our new act corresponds, nuncupative wills were abolished in England, with the exception of the wills of soldiers and mariners, who were empowered by the 11th section to dispose of their personal estate as they might have done before the making of the Act.

In this Province, by Statute 33 Geo. 3, c. 8, the making of nuncupative wills was subjected to such restrictions as must have practically abolished them; and by Con. Stat., U. C., cap. 16, s. 83, it is provided that "no nuncupative will, made after this Act comes in force, shall be good; provided that any soldier being in actual military service, or any mariner or seaman being at sea, may dispose of his personal estate in such manner as he may now do according to the laws of England." It will thus appear that the new Act effects no change in the law respecting nuncupative wills.

Appointments by will are, by the 8th section of the Act, required to be executed in the same manner as a will; and such an execution of the appointment is made sufficient, though provision may have been made by the instrument creating the power, that other forms or solemnities than those prescribed by the Act shall be used in exercising the power.

Sections 11, 12, 13 and 14, are a substantial re-enactment of the provisions of 25 Geo. 2, c. 6, which is repealed by the new Act. That statute was passed to remedy the inconvenience resulting from the construction put by the Courts upon the words "credible witnesses" contained in the 5th section of the Statute of Frauds. It was early held that any person, who derived any benefit under a will of real estate, should be considered an incompetent witness on the ground of interest; and the statute 25 Geo. 2, c. 6, by depriving a witness to a will (except in a few cases), of any provision made by the will in his favour, preserved the witness' competency.

The Act was held, however, not to extend to a case where a witness takes an interest consequentially and not directly: *Ryan* v. *Devereux*, 26 U. C. Q. B. 100, and cases there cited. Thus, where the will gave a small legacy to the wife of one of the witnesses, and thus created an interest which rendered the husband technically incredible, it was held that the statute did not apply, and that the husband was therefore incompetent to be a witness to the will: *Ryan* v. *Devereux*,

sup. This defect in the old statute is cured by the new Act, which renders void a devise or legacy to the wife or husband of the attesting witness.

We now approach the important subject of the revocation of wills. The provisions of the statute on this subject are not absolutely new to our law; for, as before observed, the Act, 32 Vict., c. 8, contains the chief provisions of the English statute, 1 Vict., c. 26, regarding revocation. In one important particular, however, it is conceived that our statute, 32 Vict., c. 8, is defective. It contains no provision regarding obliterations, interlineations, or other alterations which form the subject of the 21st section of the English Act. The omission of such a provision would, it seems, lead to the unfortunate result that whilst a will cannot be totally revoked except by the means provided by the Act, it may be partially revoked by obliteration in the same manner as before the Act was passed. Obliteration was permitted by the Statute of Frauds as a means of either total or partial revocation of a will of real estate. The 20th section of the English Act, 1 Vict., c. 26, from which the 5th section of 32 Vict., c. 8, was adopted, was held in England to apply to total and not to partial revocation, and the words "otherwise destroying," which are substituted in that section for the words "cancelling" and "obliterating," which occur in the Statute of Frauds, were held not to comprise cancellation or obliteration. (See 1 Williams Exors. 139, and cases cited in notes.) Assuming, as we must, that the same construction would be placed by our courts on the words of the 5th section of 32 Vict., c. 8, it follows that that section does not apply to partial revocations. Hence it must appear that though a will cannot be wholly revoked except in the manner prescribed by 32 Vict., c. 8, it may be partially revoked by obliteration to the same extent as before the passing of that Act. As the new Act applies only to wills *made* after the 31st December, 1873, the anomaly referred to will continue after the new Act comes into force.

The new statute provides that marriage *alone* shall be a revocation of a will made before marriage. Under the old law marriage was always a revocation of the will of a woman, but marriage *and the birth of issue* were necessary to constitute a revocation of the will of a man made before marriage. And, in certain cases, where provision was made by a man for his issue, by settlement or otherwise, even the concurrence of the two events of marriage and the birth of issue did not operate as a revocation of his will. The wording of the new statute, however, respecting the revoking effect of marriage is express and positive. A will made in exercise of a power is excepted, under certain circumstances mentioned in the Act, from the operation of marriage as a means of revocation.

Marriage is the only alteration in circumstances to which a revoking effect is given, section 16 providing that no will shall be revoked by any presumption of an intention on the ground of an alteration in circumstances.

Reference has been made to the words "otherwise destroying," which were substituted in the 20th section of the English Act for the words "cancelling or obliterating," contained in the Statute of Frauds. These words also occur in the 17th section of the new Act. They have the effect, as has been before remarked, of depriving "cancellation" and "obliteration" of the efficacy as a means of *total* revocation which they formerly possessed. The destruction implied in the words "otherwise destroying" is a destruction effecting the same physical results as burning or tearing. (See remarks of the Court in *Stephens* v. *Taprell*, 2 Curt. 458), not a mere cancel-

lation or obliteration of the contents of the will.

Obliterations, interlineations, and other alterations are provided for by the 18th section of the Act. Any alteration in the will must be executed in the same manner as is required by the Act for the execution of a will. If, however, words should be so obliterated that they cannot be ascertained by an inspection of the instrument, the will must be read with these words omitted, as the Courts refuse to admit extrinsic evidence to ascertain what the words were: 1 Williams Exors. 139, and cases cited in note "*h.*" The practical result of course is that a will *may* be partially revoked by an unattested obliteration, if the words are so obliterated as to be incapable of being ascertained.

The revival of a will, it will be observed, can, under the Act, be effected only by a re-execution of the will, or by a codicil executed in the same manner as a will is required to be executed, and showing an intention to revive.

Under the present law a will of real estate which has been revoked can only be revived by re-execution: 1 Powell on Devises 609, 3rd Ed. But a revoked will of personal estate may be revived by parol: 1 Williams Exors. 199, or by any act of the testator showing that he desired to revive and adopt the will.

The 20th section of the new Act deals with the anomaly referred to by V. C. Mowat in the case of *Loughead* v. *Knott* already alluded to. It is in fact a re-enactment of the 2nd section of 32 Vict., c. 8, which was passed shortly after that case was decided.

The old law is described by Sir W. Page Wood (*Grant* v. *Bridger*, L. R. 3 Eq. 352), as "that law now happily obsolete (in England), by which, with a sort of remorseless logic, any person who had once made a will and afterwards disposed of his interest for any purpose whatever, even although he might get back the identical estate he parted with, was held to have revoked his will, and equity could not give any assistance except in the single case of a mortgage. * * * * This mode of entirely defeating a testator's intention by the magic of a conveyance, as I have said, is a logical application of the doctrine that a will is an appointment of real estate." That such a principle of law should have remained so long unaltered in this Province may probably be attributed to the fact that no case had occurred in our Courts before *Loughead* v. *Knott*, in which its monstrous features were obtruded upon the notice of the public.

(To be continued.)

TRAVELLING BY RAIL.

(CONCLUDED.)

We now pass from fatal accidents to those of a less disastrous nature. An infant, if injured by a railway accident, may lay the foundation of a fortune by recovering damages against the company, even although his finances have not been lowered by paying for his ticket when he should have done so. A company was bound to carry infants under three years of age free of charge, and children between three and twelve years at half-fare, (surely that by-law or act must have been drafted, framed and passed by fathers of large families); the plaintiff's mother, carrying in her arms the plaintiff, a juvenile of three years and two months, purchased a ticket for herself but did not take one for her child; no question as to the age of the plaintiff being asked by the officials, and the mother having no desire to deceive or defraud the company. *En route*, an accident occurred, through the negligence of the company, and the plaintiff was injured; *held*, that the infant was entitled to recover against the company for the injury he had received.

The contract the mother made by the purchase of the ticket was, that both she herself and the plaintiff should be carried safely. If that contract had been entered into under some misrepresentation on the part of the mother, she might have been liable for the fare which ought to have been paid for the child, or for any penalty to which she might be subject by any enactment or by-law made under statutory powers. But her default did not alter the position of the company; and the contract being to carry the mother and child, and through the negligence of the company, the plaintiff being injured, the verdict giving him damages was right. The company entering into it under a mistake as to the age of the child did not make it less a contract: *Austin* v. *Great Western Ry. Co.*, L. R. 2 Q. B. 442.

It was held on demurrer, that a sufficient cause of action was disclosed when the declaration alleged, that by reason of the accident, the plaintiff became sick, sore and disordered, and so continued from thence hitherto, and thereby, also, by reason of the terror and alarm occasioned to her of the said collision, and of such sickness caused thereby, she had a premature labor and bore a still-born child: *Fitzpatrick* v. *Great Western Ry. Co.*, 12 U. C. Q. B. 465.

Where the conduct of the passenger in any way contributed to the accident, he is estopped from bringing an action against the company; for instance, if he is injured while on the platform of a car, or on any baggage, wood, or freight car, in violation of the printed regulations posted up at the time in a conspicuous place inside of the passenger cars then in the train, he will have no claim for the injury, provided room inside of such passenger cars, sufficient for the proper accommodation of the passengers, was furnished at the time (sec. 20, sub-sec. 13, Railway Act, 1868.) The plaintiff, who had an ordinary passenger ticket, went into the express company's compartment of the baggage car, and while there, the train, (which was stationary,) owing to the negligence of the defendants' servants was run into by an engine coming up behind it, and the plaintiff's arm was broken. It appeared that although the compartment was not intended for passengers, still they frequently went in there to smoke, and that the conductor had passed through it twice while he was there without making any objection to the plaintiff's presence. No person in the passenger cars was seriously hurt. A notice that passengers were not to ride upon the baggage car was usually put upon the inside of each door of the passenger car, and on the door of the baggage car, but it was not distinctly shewn that it was there on the day of the accident. The jury found that the plaintiff was wrongfully in the car, but that as he was not told where to go when he bought his ticket, nor had the conductor ordered him out, he was not to blame. The Court held that assuming the plaintiff was aware of the notices and yet went into the baggage car, the defendants were not thereby excused under all the circumstances; and that the jury were warranted in finding that the plaintiff did not so contribute to the accident as to prevent him recovering, the collision having resulted entirely from the defendants' negligence. *Held*, also, that sub-sec. 13 of section 20 of the Railway Act did not apply. The jury gave $2000 damages; but the evidence as to the injury being very loose (no medical witness having been called), the Court granted a new trial on payment of costs: *Watson* v. *The Northern Railway Co. of Can.*, 24 U. C. Q. B. 98.

In *Murray* v. *Metropolitan District R. W. Co.*, 27 L.T. N.S. 762, the plaintiff occupied a seat next to a window, and allowed his left hand to rest on the ledge of the window, which was up when he

entered the car. As the train approached a station the break was suddenly put on, and the window falling down from the vibration, inflicted a serious injury on the plaintiff's finger. The plaintiff was nonsuited on this evidence, the Court holding that without positive proof of a defective construction of the window, the mere falling of it would not make a *prima facie* case of negligence against the company. But this case is no authority for saying that passenger carriers are not bound to provide windows with good fastenings for the comfort of the passengers. A railway company is not bound to put bars across its carriage windows—as careful matrons do over their nursery panes—to prevent travellers from putting their limbs, upper or lower, out: and it is negligence for a passenger to allow his arm to project beyond the inside of the window, and if it is injured while in that position he cannot recover damages from the company: *Indianapolis & Cincinnati R. W. Co.* v. *Rutherford*, (referred to in 4 U.C. L.J. N.S. 242.)

While the plaintiff was looking out of a window and pressing against a bar crossing it, the door flew open and he flew out, and was injured. There was no evidence as to whether the door was totally unfastened or only secured imperfectly; the jury having given the plaintiff a verdict, a rule obtained to enter a non-suit was discharged: *Gee* v. *Metropolitan R. W. Co.*, Ex. Ch., Weekly Notes, No. 7, 1873.

On the question of the liability of a company for accidents arising from the negligence of others, it has been held that where a passenger on a train has been injured by the misconduct of a fellow traveller, the company is liable only in case there was negligence in its officers not making proper efforts to prevent the injury. Railway companies are bound to furnish men enough for the ordinary demands of transportation, but not a police force adequate to extraordinary emergencies, as to quell mobs by the wayside. It is negligence in a conductor to admit voluntarily improper persons, or undue numbers, into a car: *Pittsburgh, Fort Wayne &c. R. W. Co.* v. *Hinds*, 7 Am. Law Reg. 14. A girder, which was being placed across the retaining wall of the railway, through the negligence of the workmen employed by a contractor and unconnected with the defendants, fell upon and injured the plaintiff while he was travelling by the defendants' railway. It was proved that the work in question was extremely dangerous, though none of the witnesses had ever known of a girder falling; that it was the practice when such work was being done for the company to place a man to signal to the work people the approach of a train, and that this was not done on the occasion in question: but there was no proof that the company's servants knew that the girder was being removed at the time the train was passing, or of the means used by the contractor to move it. *Held*, (reversing the decision of the Court of Common Pleas,) that as a fact the defendants were not guilty of negligence, although the evidence of negligence was such that it should not have been withdrawn from the jury: *Daniel* v. *Metropolitan R. W. Co.*, L.R. 3 C.P. 591, (Ex. Ch.)

Evidence of the number of olive branches round about the family table of the injured one, or of his habits of industry, is not admissible in an action for damages, unless special damage is averred. In an action of this kind evidence that the conductor was intemperate, or otherwise incompetent, is admissible to raise a presumption of negligence. And it is no justification for the employment of an incompetent servant that competent ones are difficult to obtain: *Pennsylvania R. W. Co.* v. *Brooks*, Am. Law Reg. 524.

The first clause of the Mosaic Law

known as the fourth commandment, and the various acts thereon founded, occasionally step in to the detriment of travellers: as where the plaintiff received an injury by being thrown from one of the defendant's horse cars, while on the way to visit a friend, it was held that the plaintiff was travelling in violation of the Lord's Day Act, and could not recover: *Stanton* v. *Metropolitan R. W. Co.*, (referred to in 4 U.C. L.J. N.S. 170.) In many of the neighbouring States travelling is forbidden on Sundays.

Railway companies should bring their trains to a halt at places convenient for passengers to alight. Bringing a car to a stand still at a spot at which it is unsafe for a passenger to get out, under circumstances which warrant the traveller in believing that it is intended he shall alight, and that he may do so in safety, without giving him any warning of his danger, amounts to negligence on the part of the company, for which an action may be maintained if the plaintiff has not in any way contributed towards the accident: *Cockle* v. *London & S. E. R. W. Co.*, L. R. 7 C.P. 721. (Ex. Ch.) Here the carriage in which the plaintiff was, remained some feet beyond the platform where the train stopped, and owing to the insufficiency of the light, the plaintiff in alighting imagined she was stepping upon the platform, and thus fell. In this, *Praeger* v. *Bristol & Exeter R. W. Co.* 24 L. T. N. S. 105, which was a similar case, was followed. In giving judgment, however, in Praeger's case Cockburn, C. J., said "I adopt most readily the formula which has been suggested as applicable to these cases, viz: that the company are bound to use reasonable care in providing accommodation for passengers, and that the passengers are also bound to use reasonable care in availing themselves of the accommodation provided for them. Therefore I agree that a passenger is bound to use reasonable care in alighting on the platform, or elsewhere, when it becomes necessary for him to alight; I agree that if it be daylight, a man being bound to use his eyesight, if the passenger sees that the carriage is not in the ordinary position with reference to the platform, he must not complain if there being no actual danger, he has to use a little more caution than usual in getting out."

Where the train overshot the platform so that the car in which the plaintiff was sitting stood opposite to the parapet of a bridge, the top of which in the dusk looked like the platform; the porters having called out the name of the place, the plaintiff getting out on the parapet in the *bonâ fide* belief that he was stepping on the platform, fell over and was injured, but recovered from the company: Bovill, C. J., held that on this occasion there was a clear invitation to alight at a dangerous place: the plaintiff, too, was misled by the appearance of the parapet into thinking it was the platform, and this distinguished the case from *Bridges* v. *North London R. W. Co*, L. R. 6 Q. B. 377. *Whitaker* v. *Manchester and S. R. W.*, L. R. 5 C. P. 464. The Company was held liable where, in the dark, a passenger in alighting fell into a culvert over which the car had stopped: *Col. & Ind. C. R. W. Co.* v. *Farrell*, 31 Ind. 408. In *Foy and his wife* v. *London B. & S. C. R. W. Co.* 18 C. B. N. S. 225, owing to the length of the train, there was not room for all the cars to be drawn up at the platform, and some of the passengers were desired to get out upon the line beyond it. The distance from the carriage to the ground was only three feet: Mrs. Foy, instead of sensibly availing herself of the two steps of the carriage, with the aid of Mr. C. jumped from the first step to the ground, and came down with such a thud that she injured her spine. The jury found that the company were guilty of negligence in not providing reasonable means of alighting, and that the lady had

not contributed to the accident, and they gave her £500 to pay her doctor's bills: and the court considering the finding warranted, declined to interfere with the amount of damages.

Bovill, Q. C., urged that if the lady, instead of jumping as she did, had turned herself round and availed herself of the assistance of both steps and of the handles of the carriage, the accident would not have happened; but Williams, J., said severely that "in the present fashion of female attire, the mode of descent suggested by the learned counsel would be scarcely decent." This judgment was given in 1865, and as fashions change, one can hardly decide what a lady might or should do in this present year of grace. Where, however, Mr. and Mrs. Siner arrived in daylight at Rhyl station and the carriage in which they were overshot the platform; the passengers were neither told to keep their seats nor get out, nor was there any offer made to back up, nor did the train again move until it started on its onward journey to Bangor. After exhausting his stock of patience, the husband, following the example of his fellow travellers, alighted without asking the company's servants to back the train to the platform or holding any communication with them whatever. The wife then, standing on the iron steps of the carriage, grasped both her husband's hands and jumped down, straining her knee in the act. There was a foot-board between the iron steps and the ground which she might have used but did not. There was no evidence of any carelessness or awkwardness except such as might be inferred from these facts. In an action brought against the company for this injury, the court held (Kelly, C. B., diss.) that there was no evidence of negligence in the defendants, and that the accident was entirely the result of the woman's own acts in awkwardly and carelessly jumping. The case of *Foy* v. *London, &c.*, *ante* was distinguished, as there an express invitation to alight was given. But the Chief Baron thought the stopping of the train at the station without any notice to the passengers not to get out, was an invitation to them to do so: that the descent at that place was dangerous, but not so clearly dangerous that the plaintiff might not properly encounter the risk; and that the company having wrongfully put the passengers to the necessity of choosing between two alternatives, the inconvenience of being carried on and the danger of getting out, were liable for the consequences of the choice, provided it was not exercised wantonly or unreasonably: *Siner* v. *Great Western R. W. Co.*, L. R. 3 Ex. 150.

So where a short-sighted gentleman, who well knew the station, got out of the train while the carriage in which he had been sitting was still in a tunnel, and in making his way to the platform, stumbled over some rubbish and fell, breaking his leg and otherwise injuring himself, so that he shortly died from the effects; there being no evidence that the train had come to a final stand-still, or that the company had designed the passengers to alight then, it was held that the personal representative of the deceased could not recover against the company: *Bridges* v. *North London Ry. Co.*, L. R. 6 Q. B. 377. The fact that the deceased was short-sighted imposed no additional obligation on the defendants. In one case the platform was curved back from the line so as to leave a space of two feet between the carriage and the platform; the train having stopped, and the name of the place having been called out, one Praeger, a passenger, stepped forth and fell between, injuring himself thereby. A good deal of evidence was given as to the circumstances of the accident and the knowledge of the plaintiff of the peculiarities of the station. The jury gave the plaintiff a verdict, but the Court made absolute a rule to enter a nonsuit

on the ground that the conduct of P. amounted to contributory negligence: *Praeger* v. *Bristol & Exeter Ry. Co.*, L. R. 5 C. P. 460 *n.* 1; see also, *Plant* v. *Midland Ry. Co.*, 21 L. T. N. S. 836 and *Harold* v. *Great Western Ry. Co.*, 14 L. T. N. S. 440.

In Bridges' case it was unanimously held by the whole Court, that the calling out the name of a station is not in itself an intimation to the passengers to alight; whether it is so or not must depend on the circumstances of each particular case; as Willes, J., said, nobody who travels by rail who has a head on his shoulders would ever say that calling out the name was an invitation. Cleasby, B., considered that in reality the stopping of the train at the station is the invitation to alight. In *Whitaker* v. *Manchester &c. Co.*, *ante*, Bovill, C. J., said that whether calling out was a request to alight or not, was a question for the jury.

If a place where a passenger is required to alight is in fact dangerous, it is his duty to request the train to be put in the proper place; and this is a request which no station-master would venture to refuse, knowing the risk he would incur if an accident happened through his refusal. If the defendants will not place the train properly, the plaintiff should stay in the carriage. So said the Judges in *Siner* v. *Great Western Ry. Co.*, L.R. 3 Ex. 150; but we can well imagine the surprised look—tinged strongly with scorn—of a conductor upon one of our Canadian railways, were he asked to move his train forwards or backwards for the convenience of his living freight.

Companies should allow their passengers reasonable time for leaving the cars when they arrive at their journey's end; if they do not, and any one, young or old, is injured, the company will be liable: *Railroad Co.* v. *Baddeley*, 54 Ill. 19; see also the remarks of Willes, J., in *Bridges* v. *N. London Ry. Co.*, *ante*. But if a person dilly-dallies ununtil the train again moves on, and then while hurriedly alighting is injured, fatally or otherwise, no action will lie against the company: *Ill. Central Ry. Co.*, v. *Slatton*, 54 Ill. 133. Sick and infirm travellers, and those unable to take care of themselves, should provide themselves with proper assistants while journeying by cars; and if one from ill-health requires longer time than usual for alighting he should give the conductor timely warning: *New Orleans Ry. Co.*, v. *Statham*, 42 Miss. 607, see also *Bridges* v. *North London, &c., ante*.

The stations of the Bristol and Exeter Railway Company and two other companies adjoin one another at Bristol, and are open to one another, and the passengers of each company are in the habit of passing directly from the one to the other—the whole area being used as common ground by the travellers on all three companies. While the plaintiff was on the defendants' part of the platform on the way from the terminus of one company to that of the other, a porter of the defendants' who was driving a truck laden with luggage, let a portmanteau fall off and injure the plaintiff; the Court held, that the negligence complained of being an act of misfeasance by the servant of the defendants in the course of his employment, the maxim *respondeat superior* applied and the defendants were liable; but they doubted if defendants would have been responsible supposing that the plaintiff had injured himself from the state and condition of the platform: *Tebbutt* v. *Bristol & Ex. Ry. Co.*, L. R. 6 Q.B. 73.

The importance of the matter, and the number of the cases bearing thereon, must be an excuse for again referring to railway stations. In a late American case, Dillon, C. J., laid down the following rule as applicable to all cases of injury occurring about stations and in entering cars:

Travelling by Rail.

"Railway companies are bound to keep in a safe condition all portions of their platforms and approaches thereto, to which the public do and would naturally resort, and all portions of their station grounds reasonably near to the platforms, where passengers, or those who have purchased tickets with a view to take passage on their cars, would naturally or ordinarily be likely to go." *McDonald and wife* v. *Chicago & N. W. R. Co.*, 26 Iowa 124. Where the plaintiff arrived at the station less than two minutes before the time of departure of the train, and while running along the line in a place where he should not have gone, in order to reach the train, which was some distance ahead, he stumbled over a switch handle, fell on his elbow and was considerably hurt: the jury found that the injury was occasioned by the negligence and want of proper care by the defendants, and gave him £20, and the court sustained the verdict: *Martin* v. *Great Northern R. W. Co.*, 16 C.B. 179. In *Burgess* v. *Great Western R. W.*, 32 L.T. 76, the plaintiff, a passenger on defendants' train, while waiting at a station, like many a miserable mortal has to, for the purpose of changing cars, desired some stimulants for the inner man. There being no refreshment room he asked the porter the way to a public house, and that official showed him the road to one on the opposite side of the highway which passed the station. While enjoying himself to the full the bell rang out sharp and clear, and the plaintiff instead of returning the way he came, took a short cut over some unfenced ground towards the engine, the light of which he mistook for the station lamps. On his way he fell into a three foot deep hole, and was injured. A verdict was given for the plaintiff, on the ground that a company is bound so to fence its station that the public will not be misled by seeing a place unfenced into injuring themselves by passing that way, it being the shortest road to the station. A company was held responsible for damages arising to the plaintiff who fell over some hampers which had been put out of the train, such mischief not being attributable to the plaintiff's own negligence: *Nicholson* v. *Lancaster & York R. W.*, 3 Hurl. & C. 534.

In *Longmore* v. *Great Western R. W.*, 19 C.B. N.S. 183, it was held that the company were liable for the death of a passenger through the faulty construction of a bridge, erected by them for the more convenient access of passengers to the station, although there was a safe one about 100 yards further round, which the deceased might have used. It would seem, however, that though the access to a station may be, from its peculiar position, inconvenient or even dangerous, yet a passenger having full knowledge of its being so and still choosing to use it, may not have any ground of complaint if he be injured, *volenti non fit injuria:* Cleasby, J., in *Bridges* v. *N. London, &c.*

The decision in *Shepherd* v. *Midland R. W. Co.*, 20 W.R. 705, holding that a plaintiff might recover when he had while waiting for the train, slipped on a strip of ice and falling dislocated his shoulder, as he was tramping up and down the platform, would be well nigh disastrous to companies if applied strictly to the roads in our rigorous northern climate. A would-be passenger, while on the platform, got frightened by an engine which appeared to be making straight for him—a switch having been negligently misplaced—he ran to avoid the charge of the iron horse, and in doing so was injured, and the company was by the Massachusetts courts held liable; *Caswell* v. *Boston & Worcester Q. W.*, 98 Mass. But if a traveller voluntarily steps off the side of the platform, instead of going to the proper steps, he cannot recover for injuries there sustained: *Forsyth* v. *Boston, &c.*, 103 Mass. 510.

Hannan, J., in *Siner* v. *Great Western, ante*, said, "I think juries take an exaggerated view of the duties of railway companies. The companies have done so much for the comfort and convenience of travellers, that it is now made the subject of complaint if the highest degree of luxurious care is not attained in all their arrangements." These remarks appear exceedingly appropriate and reasonable when one considers that in *McDonald et ux.* v. *Chicago, &c.*, 26 Iowa, 124, it was held, that the female plaintiff, who found the passenger room at the station unfit for occupation, by reason of her olfactory nerves and visual organs being offended by tobacco smoke and other impurities, and attempted to enter the cars which had not yet been drawn up to the platform that she might avoid these disagreeables, and was injured by the giving away of the steps of the platform, was entitled to recover. "It is the duty of railway passenger carriers to provide comfortable rooms for the accommodation of passengers while waiting at stations, and to enforce such regulations in regard to smoking therein, as to enable passengers to occupy them in reasonable comfort." The learned judge must have held views somewhat similar to those entertained by the royal leader of the anti-tobacconists, James I. But where in a crowd the plaintiff was driven against a portable weighing machine on the platform of the defendants' station, and catching his foot in it, fell and hurt himself,—the foot of the machine projected some six inches above the level of the platform, and it was unfenced, but it had stood there some five years without accident to any person passing to or from the train; *held*, that there was no evidence of negligence to go to the jury, the machine being where it might have been seen, and the accident not being shewn to be one which could have been reasonably anticipated: *Corman* v. *Eastern Counties Ry.*, 4 H & N. 781. If an accident had happened from the platform being so constructed as to be insufficient to carry the weight of the persons who might come upon it in great numbers on a particular day, that no doubt would be evidence of negligence on the part of the company.

Passengers have the same rights to safe ingress, egress and regress and proper station accommodation and platforms at intermediate places where the train may chance to stop for refreshments, as they have at the termini of the line: *McDonald* v. *Chicago, &c., ante.* But at stations where the train stops merely for the purposes of the railway, and people are not expected to get out or in, the rights of passengers, and the liability of the company are greatly curtailed: *Frost* v. *G. T. R.* 10 Allen 387.

In *Murchamp* v. *Lancaster & Preston Ry. Co.*, 8 M. & W. 421, the counsel for defendants, to establish the point that the company was not liable for goods lost beyond the limits of their line, as a *reductio ad absurdum* put the case of a passenger injured on a line of railway beyond that to which he was originally booked,—but Rolfe, B., could not see it, and considered that if he took his place at Euston Square, and paid to be carried to York, he would, if injured, have his remedy against the party who contracted to carry him to York. And this dictum of the learned Baron's has been fully sustained by a host of decisions. *The Great Western Ry.* v. *Blake*, 7 H. & N. 987, (Ex. Ch.,) decides that where a railway company contracts to carry a passenger from one terminus to another, and on the journey the train has to pass over the line of another railway company, the company issuing the ticket incurs the same responsibility as that other company, over whose line the train runs and by whose default the accident happens, would incur if the contract to carry had been entered into by them.

The company issuing the ticket is liable for the negligence of the servants of any other company over whose line the passenger has to pass to reach his journey's end; the contract with the passenger being the same whether the journey be entirely over the line of the first company, or partly over the line of another company, and whether the passage over the other line be under an agreement to share profits or simply under running powers, viz.,—not only that they will not be themselves guilty of any negligence, but that due care will be used in carrying the passengers from one end of the journey to the other, so far as is within the compass of railway management. *Thomas* v. *Rhymney R. W. Co.*, L. R. 6 Q. B. 266 (Ex. Ch.,) and *John* v. *Bacon*, L. R. 5 C. P. 437.

The train, on which was one Birkett—who had bought from the defendants a ticket to Carlisle—in going into a station had to pass over the line of another road, on which was a self-acting switch: in consequence of the points of the switch being turned the wrong way the train collided with some coal trucks, and B. came to an untimely end. The Court held that the judge had rightly left it to the jury to say whether there was negligence on the part of the defendants, and the jury having found that there was, that the defendants were liable to Birkett's personal representatives: *Birkett* v. *Whitehaven Junction R. W. Co.* 4 H. & N. 730. If a switch by which another road connects with that of the defendants—although it is provided by, and attended to by, the other road—is so carelessly managed that an injury is sustained by a passenger upon the cars of the defendants, the defendants are responsible: *McElroy* v. *Nassau & Lowell R. W.* 4 Cush. Mass. 400, and see *Nassau* v. *same defendants*, 9 Foster 1. Yet in *Sprague* v. *Smith*, 9 Verm. 421, it was held that where a carrier of passengers rightfully runs his cars upon the line of another company, over which he has no control or power, he will not be liable for any injury caused, without any fault of his, through the negligence or misconduct of the servants of the other line: see also *Parker* v. *Rensselaer & Saratoga R. W.* 16 Barbour 315. Fortunately, though English and Canadian Courts are desirous of treating American decisions with great respect, still their authority here and in the father land mainly depends upon the reasons on which they are founded.

In *Wright* v. *Midland R. W.*, Weekly Notes, 1873, No. 8, the plaintiff was in defendants' train: over a portion of their line the North Western Company have running powers, and some of the cars of the latter company ran into the train carrying the plaintiff. The accident happened entirely through the negligence of the servants of the North Western Company. At the trial the judge ordered a verdict to be entered for the defendants with leave to the plaintiff to move: in term the Court sustained the decision and held that the defendants were not liable.

The covetous greed of a young bovine gave the Court of Queen's Bench the trouble of deciding the case of *Buxton* v. *North Eastern R. W. Co.*, 3 Q. B. L. R. 549. A bullock tempted by better pasture on the other side of the line, forced his way through the hedge of the field in which he was enclosed, (though, by the way, the reporter does not show upon whose evidence the bullock's intentions were proved). The train in which one Buxton chanced to be collided with the animal while it was straying on the track, and Mr. B. being hurt by the shock sought to recover damages from the defendants. It appeared that he had been a passenger on the defendants' railway to be carried from Y. to T., and to reach T. it was necessary to travel over the line belonging to another company, and while journeying over the latter line the affair of the bullock took place. The Court held

that the contract having been made with the defendants they were the proper parties to be sued. A new trial was, however, granted because the judge had directed the jury that it was negligence in the defendants if the fences were insufficient; the Court considering that there was no statutory obligation on the company, towards their passengers, to keep up the fences.

"If mischief arises from the act of a stranger in leaving a log of wood across the railway, or doing any other act which might endanger a railway train passing along the line of another company, an action cannot be maintained against the railway company, because in that case there would not be any direct or indirect breach of duty, or breach of contract, on their part; they would not be liable on their own line, or on any other company's line for that:" so the judgment in *Thomas* v. *Rhimney, &c., ante*, is limited to mischief arising to a passenger in a railway train from some negligence or other of that one of the companies which is the owner of the line over which the party complaining of the injury is travelling. See also, *Latch* v. *Rimner R. W. Co.*, 27 L. J. (Ex.) 155.

Mytton v. *Midland R. Co.*, 4 H. & N. 615, decided that when a passenger had taken a ticket from a company to be carried through over another company's line, the contract is an entire contract with the company giving the ticket, and no action for negligence will lie against the other company. The same principle has been adopted by the American Courts. *Weeds* v. *Saratoga R. W.*, 19 Wends. 534, and see also *Muschamp* v. *Lancaster, &c.*, at p. 430. In *Great Western R. W.* v. *Blake, ante*, Crompton, J., doubted whether the injured passenger had any remedy against the company from which he did not get his ticket, as there was no privity between them: but he considered that the one company would have a remedy against the other.

And now having given some idea of the cloud of cases and authorities, dicta and decisions, wherewith the path of the railroad traveller is hedged in, this train of ideas—which perhaps has already run over too many lines—must be brought to a stand-still. It was the intention to notice some points decided anent travelling dogs, bulls and horses, but at present the reader must be content to draw his own deductions as to the law affecting these quadrupeds from what has been said with regard to bipedal donkeys, calves and puppies.

CANADA REPORTS.

ONTARIO.

NOTES OF RECENT DECISIONS.

COURT OF ERROR AND APPEAL.

Royal Canadian Bank v. Stevenson.

Appeal struck out as not having been set down within time allowed—Right of respondent to costs.

Where the Court refused to hear an appeal, and ordered it to be struck out because it had not been set down for argument within the time allowed by 34 Vic. ch. 11, sec. 40. *Held*, that the respondent, who had appeared to answer the appeal, was entitled to his coets, for the appellant should have applied earlier for an extension of the time, and that the Court had jurisdiction to grant costs, though the appeal had not been heard.

Semble, that the respondent should have stated the lapse of time as one of his reasons against the appeal.

COMMON LAW CHAMBERS.

Fralick v. Dormyn.

Ejectment—Better particulars of title—Application before appearance.

[Mr. Dalton, 8th April, 1873.

Held, that an order for better particulars of title in ejectment may be made before appearance is entered.

McCallum v. The Provincial Insurance Company.

Service of papers.

[Mr. Dalton, 18th April, 1873.]

Held, that service of a notice of trial counts from the time it comes into possession of the defendant or his attorney, after being put under the door of his office, not from the time it was so put under the door.

Chambers v. Unger.

Ejectment—Security for costs—C. S. U. C., ch. 27, Sec. 76.

[Mr. Dalton, April 18th, 1873.]

Held, on an application for security for costs under the above section, that the fact of the costs of the former unsuccessful actions having been paid, is not a ground for refusing to make an order.

Carnegie v. Rutherford.

Service of papers—Wrong style of cause.

[Mr. Dalton, April 27th, 1873.]

A clerk, on the last day for notice of trial, while on his way to serve it, met the defendant's attorney's partner who, told him to go to the office and serve it there. When he arrived no one was in. He put it under the door and it was not received until next day. The christian name of the defendant was wrong, in the style of cause.

Held, that the service was good, but that the style of cause being wrong the notice must be set aside.

CHANCERY CHAMBERS.

Cattanach v. Urquhart.

Disputing note, effect of—Statute of Limitations, how set up as a defence to a mortgage suit—Mistake of Solicitor—Chambers.

[The Referee, and Blake, V. C., on appeal, January 22nd, 1873.]

Under a note disputing the amount of the plaintiff's claim, filed in a mortgage suit, questions as to the correctness of the account alone can be raised.

The Statute of Limitations cannot be set up under such a note, but must be pleaded.

An application was made to vacate a præcipe decree taken into the Master's office, and to allow, instead of a disputing note, an answer to be filed, setting up the Statute of Limitations. The motion was *held* to be properly made in Chambers, and was granted, it being shewn that the note was filed through the mistake of a solicitor, in supposing that the defence of the Statute was available under it.

Garforth v. Cairns.

Tender—Costs—Discretion of the Referee—Tender after suit brought.

[The Referee, May 10, 1873.]

Held, 1 following *Powney* v. *Blomberg*, 8 Jur. 746, that a letter by the defendant's solicitor to the plaintiff's solicitor before suit, offering to pay the plaintiff's demand, was not a tender.

2 A tender of a claim after suit brought upon it, must include costs incurred up to the date of the tender.

The claim for which a suit had been brought having been compromised, the question by whom the costs of the suit should be borne, was determined by the Referee in Chambers, on a summary application by consent of the parties. Upon appeal Strong, V. C., refused to interfere with the discretion exercised by the Referee as to costs.

Trust and Loan Company v. Start.

Delivery of Possession—General Orders 389 and 464.

[The Referee, May 27, 1873.]

After a sale under a decree, an order for delivery of possession will not, as a general rule, be made against a stranger to the suit, and *quære*, if there be any jurisdiction over strangers, except in a plain case such as of a person taking possession *pendente lite* without any pretence of paramount title.

Kincaid v. Kincaid.

Purchaser—Right to payment of incumbrances—Effect of taking a vesting order.

[The Referee, and Strong, V.C., on appeal, June 11-16, 1873.]

Payment of incumbrances out of the purchase money in Court refused, the purchaser having accepted a vesting order.

Dunn v. McLean.

Affidavit—Commissioner.

[The Referee, June 19, 1873.]

A, B and C were partners, doing business in Chancery. A, B and D were partners doing business at Common Law. An affidavit tendered by C. on an application in Chancery, was rejected, it having been sworn before D.

ENGLISH REPORTS.

DIGEST OF ENGLISH LAW REPORTS

FOR NOVEMBER AND DECEMBER, 1872.

From the American Law Review.

Account.—*See* Husband and Wife.

Accumulation.—*See* Will.

Ademption.—*See* Legacy, 2.

Advance.—*See* Legacy, 2; Will.

Advertisement.—*See* Copyright.

Age.

There is a presumption that a woman forty-nine years and nine months of age, and twenty-six years married, without having had children, is past child-bearing.—*In re Millner's Estate*, L. R. 14 Eq. 245.

Allotment.—*See* Company, 1.

Appointment.

A wife having real estate settled upon her with a power of appointment, appointed as collateral security for a mortgage debt of her husband. *Held*, that the wife's rights against her husband's estate were those of a simple contract creditor only.—*Ferguson* v. *Gibson*, L. R. 14 Eq. 379.

See Power, 2, 3; Settlement, 3, 4.

Arbitration.—*See* Broker.

Assignment.—*See* Bankruptcy, 1; Lease, 2.

Attorney.—*See* Carrier, 1; Privileged Communication.

Average.

Salt was insured free from average, unless general, or the ship be stranded, during a certain voyage. In consequence of bad weather during the voyage, the ship's anchors were lost and her masts cut away, and the ship towed on to a bank by salvors, where she sustained further damage. The salt, which was much damaged, was sold under a decree of the Admiralty Court, and the proceeds were entirely consumed by expenses of sale. *Held*, that the seizure and sale by said court did not render the partial loss a total loss; but that there was a stranding within the policy.—*De Mattos* v. *Saunders*, L. R. 7 C. P. 570.

Bailment.—*See* Carrier.

Bankruptcy.

1. At the request of T., M. paid the amount due on certain bills drawn by M. and accepted by T., and T. assigned to M. his interest in certain engines, &c. (which constituted his whole property), as security for the money due on the bills, and also for other moneys due from T. to M. *Held*, that the assignment was not an act of bankruptcy.—*Ex parte Reed & Steel. In re Twedell*, L. R. 14 Eq. 586.

2. By agreement under the English Bankruptcy Act, 1869, creditors were to receive a composition payable by instalments. *Held*, that on default in payment of an instalment, creditors could maintain an action at law for their whole debt.—*In re Hatton*, L. R. 7 Ch. 723.

See Surety.

Bequest.—*See* Contributory; Devise; Executors and Administrators, 2; Legacy; Power, 1; Will.

Bill in Equity.

A bill having been filed by an insurance company to cancel a policy on the ground of fraud, a motion was made to restrain an action brought upon the policy after the filing of the bill. *Held*, that the Court of Chancery had jurisdiction, but would not interfere, as the case might be more suitably tried by a jury.—*Hoare* v. *Brembridge*, L. R. 14 Eq. 522.

Bill of Lading.—*See* Charter-party, 2; Salvage, 3.

Bills and Notes.—*See* Bankruptcy, 1; Lien, 1.

Bond.—*See* Bottomry.

Broker.

The defendant, as selling broker, made a contract for his principal in the following terms: "October 26, 1869. Sold by order and for account of P. [his principal] to my principals, S. & Son, to arrive, 500 tons black Smyrna raisins—1869 growth—fair average quality in opinion of selling broker—to be delivered here in London at 22*s.* per cwt.—D. pd.—Shipment November or December, 1869." Raisins arrived, which the defendant rejected as not of fair average quality, though it appeared they were of fair average quality for the year 1869. *Held*, that whether by the contract the raisins were only to be of fair average quality for the year 1869, or fair average quality generally, the broker was not liable for an error in judgment.—*Pappa* v. *Rose*, L. R. 7 C. P. (Ex Ch.) 525; s. c. L. R. 7 C. P. 32; 6 A. M. Law Rev. 475.

Cargo.—*See* Lien, 1.

Carrier.

1. The plaintiff delivered a bullock to a railway company for transportation to N., and the animal was put upon a proper and sufficient railway truck, ordinarily used for the conveyance of cattle. The bullock escaped and was killed, without negligence on the part of the company. *Held*, that as the bullock was killed in consequence of his "inherent vice," the company was not liable.—*Blower* v. *Great Western Railway Co.*, L. R. 7 C. P. 655.

2. The defendants received, to be carried on their railway, a horse that was quiet and accustomed to travel by rail. No accident happened to the train, nor any thing likely to alarm the horse, but at the end of the journey the horse was found to be injured. *Held* (by Bramwell and Martin, BB.; Pigott, B., dissenting), that the company was not liable, as the presumption was that the injury happened from the "proper vice" of the horse.—*Kendall* v. *London and South-western Railway Co.*, L. R. 7 Ex. 373.

Charge.

A tenant for life with proviso for renewal, whose estate was subject to certain charges, neglected to insist upon the renewal of the lease, which if duly renewed would have still been subject to said charges. The tenant purchased the reversion, which was conveyed to trustees to prevent merger of the term. *Held*, that the charges on the renewable term were fastened on the reversion also.—*Trumper* v. *Trumper*, L. R. 14 Eq. 295.

See Legacy, 6.

Charity.—*See* Legacy, 1.

Charter-party.

1. Under a charter-party a vessel was to proceed to a certain dock and be there loaded by the charterers before a certain day. In an action against the charterers for breach of contract, the defendants pleaded that they had no notice of the vessel's arrival at said dock, and of her being ready to receive cargo; "wherefore the defendants did not, nor could, load." *Held*, that the quoted words must be treated as an allegation that the defendants without said notice would not have fair means of knowing that the vessel had arrived, and that such notice was necessary.—*Stanton* v. *Austin*, L. R. 7 C. P. 651.

2. Under a charter-party a vessel was to carry a cargo, "the act of God, the queen's enemies, restraints of princes and rulers, and danger of the seas excepted." A bill of lading was signed referring to the charter-party, but excepting "the danger of the seas only." *Held*, that the single exception of danger of the seas in the bill of lading did not exclude the other perils mentioned in the charter-party.—*The San Roman*, L. R. 3 Ad. & Ec. 583.

Child-bearing.—*See* Age.

Clay.—*See* Mines.

Collision.

1. A steam-tug by collision caused a vessel to go adrift, and the latter was rescued by the tug *W*. *Held*, that the *W*. was not disentitled to salvage by the fact that some of her owners were owners of the colliding tug.—*The Glengaber*, L. R. 3 Ad. & Ec. 534.

2. A schooner, close-hauled on the starboard tack, saw the starboard light and two towing-lights of a steam-tug three points upon her port bow about a mile off. The tug was towing a fully laden vessel against a head wind in open sea. The schooner kept her luff, and the tug kept its course and came into collision with the schooner. *Held*, that the tug alone was to blame for the collision.—*The Warrior*, L. R. 3 Ad. & Ec. 553.

Company.

1. The defendant was appointed and acted as director of a company, thereby becoming liable for twenty-five shares. In ignorance of this, the defendant applied for twenty shares, thinking such action necessary to qualify him as director, and the shares were allotted to him. The company was ordered to be wound up. *Held*, that the defendant was properly placed upon the list of contributors for forty-five shares.—*In re British and American Telegraph Co.*, L. R. 14 Eq. 316.

2. The secretary of a committee of shareholders, appointed to watch the proceedings of the directors of the company, was prosecuted by said directors for libel. The directors and the company were restrained at the suit of a shareholder from applying the funds of the company in payment of the costs of the libel suit, but were not, under the circumstances of the case, ordered to repay sums already so applied. *Per* Wickens, V. C., "The special powers, given either to the directors or to a majority, by the statutes or other constituent documents of the association, however absolute in terms, are always to be construed as subject to a paramount and inherent restriction that they are to be exercised in subjection to the special purposes of the original bond of association. This is not a mere canon of English municipal law, but a great and broad principle, which must be taken, in absence of proof to the contrary, as part of any given system of jurisprudence.—*Pickering* v. *Stephenson*, L. R. 14 Eq. 322.

3. By the articles of association of a company it was agreed that no dismissal of S., the manager, should be effectual, "unless the company should, if required by him, pay him the full amount of money paid upon the shares held by him in the company." S. paid £2000 on his shares; the company was wound up. S. was appointed one of the liquidators, and received £400 for his services. *Held*, that the winding up of the company was equivalent to the dismissal of S., who was therefore entitled to prove in the winding up for £2000, of which the £400 received by him as liquidator must be taken as part payment.—*In re Imperial Wine Company. Shirreff's Case*, L. R. 14 Eq. 417.

4. G., a shareholder in a limited company, transferred his shares to A., an infant, who transferred them to D., another infant, who transferred them to B. The transfers were all registered. B., who was *sui juris* at the date of the transfer, afterwards became bankrupt. *Held*, that G. continued liable as a member until the transfer to B. was registered, and that G.'s name must be placed on the list of contributories as a part shareholder.—*In re Contract Corporation. Gooch's Case*, L. R. 14 Eq. 454.

5. A company deposited deeds with a bank as collateral security for bills under discount, without conforming to the formalities required by the articles of association. *Held*, that the mortgage was valid and covered the whole amount due the bank from the company, when wound up.—*In re General Provident Assurance Co. Ex parte National Bank*, L. R. 14 Eq. 507.

See Surety.

Composition.—*See* Bankruptcy, 2.

Compromise.

In dealing with a compromise within the power of the parties to it, all that a court of justice has to do is to ascertain that the claim

on the one side and the answer or counter claim on the other is *bona fide* and truly made. —*Dixon* v. *Evans*, L. R. 5 H. L. 606.

See EJECTMENT.

CONSTRUCTION.—*See* BROKER; CHARTER-PARTY; COMPANY, 3; CONTRACT; CONTRIBUTION; DEVISE; EXECUTORS AND ADMINISTRATORS, 2; INSURANCE; LEASE, 1; LEGACY; MINES; POWER, 1; SETTLEMENT, 2, 4; STREET; WILL.

CONTRACT.

The defendant contracted with the plaintiff for the purchase of maize "to be shipped from Danube. For shipment in June and [or] July, seller's option." Cargoes of maize were shipped, and the bills of lading were dated June 4, but the loading had been begun in May and had ended June 4. The defendant refused to accept the maize. The jury found that said cargoes were June shipments. *Held*, by MARTIN, B., and LUSH, J., that the construction of the contract was properly left with the jury. By BLACKBURN and MELLOR, JJ., that said cargoes were June shipments. By KELLY, C. B., that the construction of the contract was for the court, and that said cargo should have been shipped entirely in June or July. Judgment for plaintiff.—*Alexander* v. *Vanderzee*, L. R. 7 C. P. (Ex. Ch.) 530.

See BROKER; CHARTER-PARTY; COMPANY, 1, 3; DAMAGES, 2; LIEN, 1; PARTNERSHIP, 1; SALE.

CONTRIBUTION.

A testator gave a pecuniary legacy, and devised his real estate without charging it with his debts. His personal estate proved insufficient for payment of debts. *Held*, that the real estate was not liable to contribute ratably to the deficiency.—*Dugdale* v. *Dugdale*, L. R. 14 Eq. 234.

See COMPANY, 1, 4.

COPYRIGHT.

1. There is no copyright in an advertisement. The plaintiff, a furniture dealer, had issued a descriptive catalogue, with illustrations. The defendant issued a similar catalogue, copying a small part of the plaintiff's preface and many of his illustrations and descriptions. There was no exclusive property in the articles described. An injunction was granted to restrain the defendant from publishing the small part of the preface, but refused as to the illustrations and descriptions. —*Cobbett* v. *Woodward*, L. R. 14 Eq. 407.

2. Injunction obtained by the proprietor of *The Birthday Scripture Text Book* against the publication of *The Children's Birthday Text Book*, as an infringement of the copyright of title, and as a colorable imitation of the former.—*Mack* v. *Petter*, L. R. 14 Eq. 431.

COSTS.—*See* COMPANY, 2; COPYRIGHT.

COUNSEL.—*See* PRIVILEGED COMMUNICATION.

COVENANT.—*See* LEASE, 2; SETTLEMENT, 4.

DAMAGES.

1. The plaintiff carried on business in a warehouse held on long lease, and next to a free dock on the Thames. The dock was filled up under certain embankment acts, and the plaintiff's premises thereby permanently injured with reference to the uses that he or any owner might put upon them. *Held*, that the plaintiff was entitled to compensation. See Land Clauses Consolidation Act, 8 & 9 Vict. c. 18, § 68.—*M'Carthy* v. *Metropolitan Board of Works*, L. R. 7 C. P. 508.

2. The plaintiff had a contract for furnishing a certain number of shoes at an exceptionally high price of 4*s.* per pair if delivered February 3. The plaintiff delivered the shoes to a railway company, with notice that if they were not delivered on said day they would be thrown on the plaintiff's hands. Said company failed to deliver the shoes in time, and they were sold at 2*s.* 9*d.* per pair, the market price. *Held*, that in the absence of notice of said contract price, the plaintiff could not recover as damages the difference between the market price and said contract price.—*Horne* v. *Midland Railway Co.*, L. R. 7 C. P. 583.

3. The plaintiffs were owners of a rifle range, part of which was over land leased by a verbal agreement only. A company took part of the plaintiff's land under a special statute. *Held*, that the plaintiffs had suffered damage, although part of the land covered by the rifle range was held on precarious tenure. *Holt* v. *Gaslight and Coke Co.*, L. R. 7 Q. B. 728.

See CARRIER, 2; COLLISION, 1.

DANGER OF THE SEAS.—*See* CHARTER-PARTY, 2.

DETINUE.

The father of A., an insolvent, agreed to give notes for ten shillings on the pound to trustees, for the benefit of creditors, who were to sign a deed of composition under the English Bankrupt Act. A.'s father ordered the trustees not to part with the notes, and a creditor brought suit against the father, with one count in detinue for the notes, and another on the notes. *Held*, that the count in detinue failed, as the trustees were not holding the notes as agents of the defendant; and that the second count failed, as the trustees were not holding the notes as agents of the plaintiff.—*Latter* v. *White*, L. R. 5 H. L. 578; S. C. L. R. 6 Q. B. (Ex. Ch.) 474; L. R. 5 Q. B. 622; 6 Am. Law Rev. 290.

See JUDGMENT.

DEVISE.

1. A testator devised an estate to trustees on trust to permit his son G. to receive the rents and profits during his life, and after his death to permit G's son and the heirs male of his body to receive the rent and profits during their respective lives, severally and successively, in tail male. *Held*, that said son of G. took an estate tail.—*Hugo* v. *Williams*, L. R. 14 Eq. 224.

2. A. gave his daughter a leasehold estate, remainder of his property to his wife, the income "unto my wife for her life, and at her decease unto my daughter for her own benefit, and her children, or only one child if

she should have any." All given to the daughter to be for her own benefit, and not subject to the control of any husband. If the daughter should die without issue, then said leasehold estate, together with all left to the wife for life, over. *Held*, that the daughter was absolutely entitled to said leasehold estate and to said remainder, and that the limitation over if the daughter should die without issue was void for remoteness.—*Fisher* v. *Webster*, L. R. 14 Eq. 283.

3. A testator devised his estate to his son A. for life; remainder during A.'s life to trustees, to preserve contingent remainders; remainder to B., eldest son of A., for life; remainder to B.'s first and other sons successively in tail male; and for default of such issue, to R., second son of A., for life, with remainder to his first and other sons successively in tail male; and for default of such issue to the third, fourth, and other sons of A., thereafter to be born successively in tail male; and in default of such issue, to I., the testator's daughter, for life, with remainder to her first and other sons successively in tail male; and for default of such issue, to E., eldest daughter of A., for life, remainder to her first and other sons successively in tail male; and for default of such issue, to I. B., second daughter of A., for life, with remainder to her first and other sons successively in tail male; and for default of such issue, to S., third daughter of A., for life, with remainder to her first and other sons successively in tail male; and for default of such issue, to all and every the fourth, fifth, and other daughters of A. successively, for life, with remainders to the heirs male of their bodies respectively; and "for default of such issue, to the use and behoof of all and every other the issue of my body;" and for default of issue to the testator's heirs. The testator added that it was his desire to keep said estates in one person; and he made it incumbent on the females in the line of descent, if married, to take, with their husbands, the testator's name. He also directed a certain chest or muniment box to go to the person entitled to his real estate from time to time. B. came into possession of said estates, and executed a *disentailing* deed, reciting that the estate tail was vested in him expectant on the failure or determination of the estates in tail male limited to his first and other sons, and the death and failure of issue male of his brothers and sisters, and all reversions and remainders thereon expectant or dependent. B. then devised the estates to the defendant. Said I., the testator's daughter, had died in B.'s lifetime, and B.'s brothers and sisters died without leaving issue male. E. was the last tenant in tail under the specific limitations in the will, and died, leaving a daughter. Actions were brought against the defendant as follows: first, by parties claiming jointly under the penultimate limitation in the will, as being all the issue of S. (a second daughter of the testator, deceased before the date of the will) living at the death of E.; secondly, by said daughter of E., as heiress in tail general of the testator at the time the penultimate limitation took effect in possession; thirdly, by the heir of the survivor (a daughter of S.) of all the issue of testator living at his death other than those included in the particular limitations; and, fourthly, by a grandson of S., claiming as heir in tail of the testator at his death, all those being excluded who came within the particular limitations. *Held*, first, that the words, "issue of my body," in the penultimate limitation in the will, were to be read as "heirs of my body." Secondly, that the devise, "to the issue of my body," did not, having regard to the whole will, have the effect of giving the estate *per capita* in joint tenancy among all who came within the class at the time of vesting in possession. Thirdly, that the words "all and every" were satisfied by all taking in succession. Fourthly, that the word "other" was not to be read only as excluding those within the class already provided for, but as completing a provision for all the issue, so as to make the estates go over by force of the words at the end of the penultimate limitation, "in default of such issue" only upon failure of all the issue of the testator. And that it followed by the rule in *Mandeville's Case*, Co. Litt. 26 *b*, that, by virtue of the penultimate limitation, there was, at the death of the testator, a vested remainder in the heirs of his body in tail: that this remainder descended to B., who, being tenant for life in possession, was qualified to execute said disentailing deed so as to acquire the absolute disposition of the estates, subject to the estates preceding the penultimate limitation. The particular limitations having failed or determined, the devisee of B. took an absolute estate. Judgment for defendant.—*Allgood* v. *Blake*, L. R. 7 Ex. 339.

4. Devise in trust for all testator's children who, being sons, should attain twenty-one, or, being daughters, should attain that age or marry. Proviso, that notwithstanding the trust aforesaid, on the marriage of any daughter, a moiety of her share should be held in trust for such daughter for life, remainder to her children. *Held*, that said proviso applied to the case of a daughter marrying under twenty-one only.—*In re Dowling's Trusts*, L. R. 14 Eq. 463.

See Contribution; Executors and Administrators, 2; Legacy; Power, 1; Will.

Director.—*See* Company, 1, 2.

Distribution.—*See* Will.

Divorce.—*See* Settlement, 2.

Documents, Inspection of.

The plaintiff filed a bill to establish his title by descent to certain lands, and prayed inspection of certain documents. The defendants stated in their answer that documents A., except as to a part left open, did not tend to make out the title of the plaintiff; that persons not parties to suit were interested in documents D.; that documents Y. did not relate to any matter to be tried in the case, but were exclusively documents which the plaintiff would be entitled to the production of by way of consequential relief if he succeeded in the case. *Held*, that documents

Y. and A. were protected, a pedigree not being such an entire document as to entitle the plaintiff to see the whole if entitled to see part; and that documents D. were not protected.—*Kettlewell* v. *Barstow*, L. R. 7 Ch. 686.

Dwelling-place.—*See* Shop.

Easement.—*See* Damages, 1.

Ejectment.

Earls A., B., and C., were successive tenants in tail of property held under an inalienable parliamentary title. B., after the death of A., entered into possession of the entailed estates, and, with them, of certain leaseholds formerly in the possession of A. A.'s executors brought ejectment against B. to recover the leaseholds. B. died *pendente lite*, and another action was brought against C., the successor to the title. C., who was also executor of *B.*, compromised the action on terms of giving judgment, buying the leaseholds, and allowing a debt of £4000 as a debt from B.'s estate for mesne profits. Before the compromise a creditor's suit was instituted, and a decree made for the administration of B.'s estate, which was insolvent. On a summons by A.'s executors to prove against B.'s estate for the amount of rents actually received by him, *held*, that the admission of C., being made as a compromise and after a decree in an administration suit, was insufficient to charge the estate of B.—*Talbot* v. *Earl of Shrewsbury*, L. R. 14 Eq. 503.

Equity.—*See* Bill in Equity; Partnership, 3; Settlement, 1.

Estate for Life.—*See* Legacy, 5.

Estate Tail.—*See* Devise, 1, 3; Legacy, 6.

Estoppel.—*See* Married Woman.

Evidence.—*See* Executors and Administrators, 3; Libel, 2; Stamp.

Executors and Administrators.

1. The creditor of a testator filed a bill against the latter's wife, alleging that administration with the will annexed had been granted to the wife, who was "the only legal personal representative and also heir of the undisposed of movables and immovables" of the testator, and that the wife had received and entered into the possession and enjoyment of all the real and personal effects of the testator. The defendant pleaded that she was not administratrix with the will annexed or legal personal representative of the testator. *Held*, that the plea admitted facts constituting the defendant an executrix *de son tort*.—*Rayner* v. *Kœhler*, L. R. 14 Eq. 262.

2. By statute, if a testator does not dispose of residuary estate, his executors take it for the benefit of the next of kin, unless a contrary intention appear. A testator appointed his two sons executors, but made no residuary bequest. By a codicil he directed that the residuary legatees in his will should receive the residue without any deductions. *Held*, that said executors did not take the residue, and that there was no disposition of the same under the will and codicil.—*Travers* v. *Travers*, L. R. 14 Eq. 275.

3. In a creditors' suit for administration of the real and personal estate of a testator, a judgment recovered against the executors (who were also trustees of the real estate), *held*, to be *prima facie* evidence of debt, as against the persons interested in the real estate; but said persons were to be at liberty to adduce rebutting evidence.—*Harvey* v. *Wilde*, L. R. 14 Eq. 438.

See Husband and Wife; Power, 4.

Fact, Mistake of.—*See* Company, 1.

Freight.—*See* Insurance.

General Average.—*See* Average.

Hotchpot.—*See* Will.

Husband and Wife.

A wife had paid certain sums into a bank under an account as executrix of her father. The wife's husband deposited other sums to the same account, and the wife paid checks for her husband's creditors and for mutual debts of both husband and wife. The husband died, and shortly afterward the wife. *Held*, that said sums deposited by the husband were a gift to the wife.—*Lloyd* v. *Pughe*, L. R. 14 Eq. 241.

See Marriage; Settlement, 1.

Income.—*See* Legacy, 6.

Infant.

Four infant daughters were entitled to a reversion expectant upon a life-estate subject to a provision that in case a child should die under twenty-one, and without having married, her share should go to the survivors. There being no other means, the court charged said reversion with a sum sufficient for the maintenance and education of the infants, under a plan securing its repayment.—*De Witte* v. *Palin*, L. R. 14 Eq. 251.

See Company, 4.

Injunction.—*See* Company, 2; Copyright, 1, 2; Trade-mark, 2.

Innkeeper.—*See* Lien, 2.

Injury.—*See* Carrier, 2.

Inspection of Documents.—*See* Documents, Inspection of; Privileged Communication.

Insurance.

The plaintiffs had insured with the defendants, "lost or not lost, in the sum of £500 upon the freight payable to them in respect of this present voyage between as below, by the vessel *Napier* from Baker's Island, . . . the insurance on said freight beginning from the loading of the said vessel." When the vessel had taken in two-thirds of the cargo ready for her at Baker's Island, she was wrecked. *Held*, that the policy had not attached.—*Jones* v. *Neptune Marine Insurance Co.*, L. R. 7 Q. B. 702.

See Average; Bill in Equity.

Joint Tenant.—*See* Legacy, 5.

Judgment.

Detinue for a piano-forte. Plea, that the

act complained of was the joint act of the defendant and T., and that the plaintiff had recovered judgment for said act against T, and that said judgment still remained in force. *Held*, that said judgment, though unsatisfied, was a bar to the present action.—*Brinsmead* v. *Harrison*, L. R. 7 C. P. (Ex. Ch.) 547; s. c. L. R. 6 C. P. 584; 6 Am. Law Rev. 496.

Jurisdiction.—*See* Bill in Equity.

Lapse.—*See* Legacy, 4.

Lease.

All coal and other mineral veins under certain lands were demised by lease containing the clause, "they, the lessees, their executors, administrators, and assigns, making reasonable satisfaction to the lessors, their heirs and assigns, for the damage done to them respectively by the surface of their lands being covered with rubbish, or otherwise injured, as well by the injury done to the lands of the said lessors in sinking and getting the said mines and minerals, as for such damage or injury as might be done or caused in the dwelling-houses or other buildings of the said lessors by getting mines of coal or other minerals under any of the dwelling-houses or other buildings of the said lessors, according to the covenant thereinafter contained. By said covenant, in case of the construction of said buildings, the lessees were to repair the same, and for each acre damaged to pay a certain sum, to be determined by arbitration, on payment of which sum the lessees were to have the free use, possession, and enjoyment of the land damaged for the remainder of the term." *Held*, that by the lease the lessees held the mines absolutely without being obliged to leave support for the surface, but that they must pay damages in case of injury by bringing down the surface, as provided in the lease.—*Smith* v. *Darby*, L. R. 7 Q. B. 716.

2. Two partners were assignees of a lease containing a covenant not to assign without the consent of the lessor. One partner subsequently assigned his interest to the other without the lessor's consent. *Held*, a breach of the covenant.—*Varley* v. *Coppard*, L. R. 7 C. P. 505.

See Charge; Mines, 1.

Legacy.

1. A testator left a legacy to the Kent County Hospital. In fact there was no such hospital; but there were three hospitals, called the Kent and Canterbury Hospital, the West Kent General Hospital, and the Kent County Ophthalmic Hospital *Held*, that the testator must be presumed to have intended a general hospital, and that the two former of said three hospitals must divide the legacy.—*In re Alchin's Trusts*, L. R. 14 Eq. 230.

2. A testator gave £500 to his sons T., J., and P., and £200 to his daughter; and he directed that neither of his said sons to whom he should have made advances should receive said legacy without bringing such advances into hotchpot. The residue of his personal estate the testator divided between his sons C., T., J., and P., and his daughter. The testator, before the date of the will, had advanced to C. £500, £170, and £58; and to T, after said date, £380 and £500. *Held*, that the advances to C. (who had received no legacy of £500) should not be taken into account against him; but that the £380 advanced to T. should be deducted from his share of the residue, and that his legacy of £500 was satisfied by the advance of that sum.—*In re Peacock's Estate*, L. R. 14 Eq. 236.

3. A testator bequeathed all his property to his sister S. for life, and after her decease to be equally divided among his brothers and sisters. The testator added, "should any of my brothers or sisters die (leaving issue) during the lifetime of my sister S., the share which would have been theirs is to be equally divided among their children." *Held*, that the children of a brother of the testator, who died fifteen years before the date of the will, were entitled to share in the estate.—*Adams* v. *Adams*, L. R. 14 Eq. 246.

4. A testator gave personal estate to trustees "to pay and transfer the same unto" certain parties "in equal seventh shares, as tenants in common, and to their respective executors, administrators and assigns, to whom I bequeath the same accordingly; and I declare that such shares shall be vested interests in each of my said residuary legatees, immediately upon the execution hereof, and that the shares of such of them as are married women shall be for their own separate use and disposal." *Held*, that the share of a married woman who died after the date of the will, but before the testator, lapsed, and did not go to her husband.—*Browne* v. *Hope*, L. R. 14 Eq. 343.

5. Bequest to E. to accumulate during the lifetime of her husband, and upon his death, "should there be any child or children living, that the property should be secured for their benefit, and for that of their mother." *Held*, that the property should be settled upon E. for life, with remainder to her children.—*Combe* v. *Hughes*, L. R. 14 Eq. 415.

6. A testator bequeathed to his wife "all sums of money that have come into my hands as part of her patrimony, being in fact a charge upon the property; this, as well as all just debts and obligations due from me, to be duly discharged as the first act of my executors." *Held*, that the wife's patrimony was to be treated as a debt, and a charge on the specifically devised property as well as on the rest of the property. A bequest to a widow of the "free occupancy" of a house confers on her the right to let it. A devise to the testator's children of "all the income of real property" carries the fee. Direction that any property might be sold except Glencoe, "a property I wish to remain in the family as long as there is a lineal son, descendant of the forenamed sons; and if no lineal male descendant from the eldest, the next to be entitled, and so on." *Held*, a devise of an estate in tail male in possession to the eldest son.—*Mannox* v. *Greener*, L. R. 14 Eq. 456.

Letter.—*See* Privileged Communication, 2.

Libel.

1. The plaintiffs had furnished the Lords of the Admiralty with certain plans for plating wooden vessels with iron. A letter from the controller of the navy to the Board of Admiralty was printed by the defendant in a blue book, containing the following words: "These plans would have no weight whatever, from the known antecedents of their author;" *innuendo*, that said plans were worthless. *Held*, that said publication was a fair criticism upon a matter of national importance, and was privileged on the absence of malice.—*Henwood* v. *Harrison*, L. R. 7 C. P. 606.

2. Libel for words used in a certain letter. The Plaintiff gave the defendant notice to produce said letter, but the defendant swore that "the letter referred to in the affidavit of the plaintiff" had been destroyed. It was *held*, that the plaintiff might give secondary evidence of the words in the letter by witnesses; but that the words as laid in the declaration must be proved, and not merely what a witness conceives to be the substance of them. Also, that though said affidavit of the plaintiff contained the alleged defamatory words, the defendant had not, by the above answer, admitted them.—*Rainy* v. *Bravo*, L. R. 4 P. C. 287.

See Company, 2.

License.—*See* Realty.

Lien.

1. B. consigned to the defendants by the ship *Acacia* a cargo which had been purchased at their joint risk, and informed the defendants of bills drawn, payable to his own order, against the cargo. The defendants replied that B.'s drafts should have protection. B. indorsed the bills to the plaintiffs, who refused to accept, as B. had in the mean time stopped payment. The plaintiffs claimed a lien for the amount of said bills on the cargo. *Held*, that the plaintiffs had no lien.—*Robey & Co's Perseverance Ironworks* v. *Ollier*, L. R. 7 Ch. 695.

2. An innkeeper received a guest who brought with him a hired piano, which the innkeeper believed to belong to the guest. *Held*, that the innkeeper had a lien upon the piano against its owner for the guest's board.—*Threfall* v. *Borwick*, L. R. 7 Q. B. 711.

See Company, 5.

Limitations, Statute of.—*See* Partnership, 3.

Maintenance and Education.—*See* Infant; Settlement, 1.

Married Woman.

Semble, a married woman is bound by estoppel in a deed duly executed and acknowledged by her, in the same manner as if she were *sole*.—*Jones* v. *Frost*, *In re Fiddey* (*a solicitor*), L. R. 7 Ch. 773.

See Age; Husband and Wife; Settlement, 1.

Marshalling Assets.—*See* Contribution; Specialty.

Mesne Profits.—*See* Ejectment.

Mines.

1. By lease was demised a seam of coal, called the High Hazel Bed, containing 108*a.*, with power to dig pits, get and carry away all of the said bed of coal. The lessees were to pay a minimum rent of £200 as for two acres, and £85 per acre for every additional acre, including all ribs and pillars left in working the coal, except certain specified pillars which were not for support of the surface, and which were to be left and not paid for. The lessees covenanted *inter alia* to work the mine to the best of their skill, and in a good and workmanlike manner. The lessees left the said specified pillars, and worked the mines according to the usual course of mining in the district. *Held*, that the lessees were not liable for a subsidence of the soil caused by said mining operations.—*Eadon* v. *Jeffcock*, L. R. 7 Ex. 379.

2. The lord of a manor granted the freehold in certain land, reserving "all mines and minerals within and under the premises, with full and free liberty of ingress, egress, and regress, to dig and search for, and to take, use, and work the said excepted mines and minerals." There was no provision for compensation to the grantee for the use of the mines. There was a bed of china clay under said land, but none had ever been taken at the time of said grant. Tin, which was known to exist in the neighborhood, was usually got by "streaming," an ancient method, which destroyed the surface of the land. Said clay could not be obtained without destroying the surface. *Held*, that said clay was included in the reservation, but that it could not be got in such a way as to destroy or seriously injure the surface.—*Hext* v. *Gill*, L. R. 7 Ch. 699.

See Lease, 1.

Mortgage.—*See* Company, 5.

Negligence.—*See* Carrier, 1.

Notice to Quit.

The tenant of an estate being imbecile, his daughter took care of his house, and, with her brothers, managed the farm. A bailiff, who was known to the daughter as such, delivered to her a notice to quit, addressed to her father. A son read the notice, but the daughter did not, but burnt it, without showing it to her father. *Held*, that the daughter was an agent of the tenant for the purpose of receiving the notice, and that, being such agent, no failure in duty as to delivering the notice to the tenant would render the notice invalid.—*Tenham* v. *Nicholson*, L. R. 5 H. L. 561.

Partnership.

1. An inalienable government contract entered into by one partner may be a part of the partnership assets; and upon the dissolution of the partnership, the partner who entered into the contract, and who continues to carry it on, must be debited with its value, to be ascertained by reference to chambers.—*Ambler* v. *Bolton*, L. R. 14 Eq. 427.

2. Right to participate in the profits of trade does not necessarily create partnership. Whether partnership exists or not must depend upon the real contract and intention of the parties.—*Mollero, March, & Co.* v. *The Court of Wards*, L. R. 4 P. C. 419.

3. Where the remedy in equity is correspondent to the remedy at law, and the latter is subject to a limit in point of time by the Statute of Limitations, a court of equity acts by analogy to the statute, and imposes upon the remedy it affords the same limitation.

The Statute of Limitations applies to a bill in equity brought by the executor of a deceased partner against the surviving partner, demanding an account of the partnership concerns. It seems that the *punctum temporis* from which the statute begins to run is the date at which the partnership came to be vested in the surviving partner.

There is no fiduciary relation between such surviving partner and executor; neither is such surviving partner a trustee, properly so called, for such executor. (Hatherly, L. C., dissenting.)—*Knox* v. *Gye*, L. R. 5 H. L. 656.

Patent.—*See* Trade-mark, 2.

Payment.

Cancellation of a debt *held* not to be "payment in cash" of a sum due from the creditor for shares in a company, under the Companies Act, 1867, § 25.—*Cleland's Case*, L. R. 14 Eq. 387.

Pedigree.—*See* Documents, Inspection of.

Personalty.—*See* Realty.

Pleading.—*See* Charter-party, 1; Executors and Administrators, 1.

Power.

1. By statute a will speaks from the death of the testator; and a general devise operates as an execution of a power, unless a contrary intention appear in the will. By settlement stock was given to trustees, subject to such trusts as the settlor should by deed or will appoint, and, in default of such appointment, in trust for the petitioner. The settlor had executed a will five weeks before said settlement, containing a general residuary bequest. *Held*, that the court might look into surrounding circumstances in order to put a construction upon the above instruments, and that, under the circumstances of the case, the will did not act as an execution of said power.—*In re Ruding's Settlement*, L. R. 14 Eq. 266.

2. The donee of a power appointed a life interest to M., an object of the power, and then delegated to M. a power to appoint a life interest to a stranger to the power, and subject thereto appointed the property to the children of M., objects of the power. *Held*, the delegated power was void, but the subsequent appointment good.—*Carr* v. *Atkinson*, L. R. 14 Eq. 397.

3. Power given to A. to appoint by any deed or instrument in writing, with or without power of revocation, to be by her signed, sealed, and delivered in the presence of two or more witnesses. *Held*, to be well exercised by the will of A., not expressed to be delivered, but stated in the attestation clause to be "signed, sealed, published, and acknowledged and declared" to be her will in the presence of three witnesses.—*Smith* v. *Adkins*, L. R. 14 Eq. 402.

4. A power of sale given by a testator to his executors and administrators may be exercised by an administrator *durante minore ætate*.—*Monsell* v. *Armstrong*, L. R. 14 Eq. 423.

See Settlement, 3; Specialty Debt.

Preferred Claim.—*See* Age; Stamp.

Principal and Agent.

When an agent makes a contract on behalf of his principal, he impliedly warrants that he has authority to bind said principal; and if it turns out that he has in fact no such authority, he becomes liable on such warranty. Otherwise, if the party dealing with the agent knows all the facts, and contracts with the agent under an erroneous belief that such a state of facts gives the agent legal authority to bind the principal; under such circumstances, the agent is not personally liable.—*Beattie* v. *Lord Ebury*, L. R. 7 Ch. 777.

Privileged Communication.

1. Documents passing between defendants or their agents and their solicitors *ante litem motam*, and described in the defendants' affidavit as "communications passing between us" or our agent "and our solicitors, with reference to matters which are now in question in this cause; and that the same are confidential communications as between solicitor and client," protected from production. A telegram passing *ante litem motam* between the defendants and a solicitor, then acting between all the parties in the matter, afterwards the subject of this suit, not privileged.—*Macfarlan* v. *Rolt*, L. R. 14 Eq. 380.

2. Letters or communications passing between solicitor and client before litigation commenced, but which afterwards did commence, relating to a contract which had been entered into and which led to litigation, are privileged.—*Wilson* v. *Northampton & Banbury Junction Railway Co.*, L. R. 14 Eq. 477.

3. Communications with counsel, with a view to obtain legal advice, or with a person not a solicitor, but acting as his deputy, are privileged. It appears that the court has discretion whether or not to order the inspection of documents admitted to be relevant and not strictly within the privilege. If documents are notes of a case for counsel, inspection should be refused. If they fall short of that, inspection should, as a general rule, be granted.—*Fenner* v. *London & South-Eastern Railway Co.*, L. R. 7 Q. B. 767.

Proof.—*See* Executors and Administrators; Stamp.

Proviso.—*See* Devise, 4.

Quit, Notice to.—*See* Notice to Quit.

Realty.

A floating derrick was anchored for several years under a license in a river, for the pur-

pose of loading and unloading coal. *Held*, that the anchors and derrick were not so attached to the bed of the river as to be ratable as "a house, building, land, tenement, or hereditament."—*Cory* v. *Churchwardens of Greenwich*, L. R. 7 C. P. 499.

Remainder.—*See* Devise, 2, 3; Legacy, 5.

Remoteness.—*See* Devise, 2.

Reservation.—*See* Mines.

Residuary Legatee.—*See* Executors and Administrators, 2.

Reversion.—*See* Charge; Infant.

Sale.

By the law of Scotland, in case of the purchase of goods by sample, the purchaser may return the same after acceptance, if they do not correspond with the sample; otherwise by the English law.—*Couston* v. *Chapman*, L. R. 2 H. L. Sc. 250.

See Contract.

Security.—*See* Appointment; Company, 5.

Set-off.—*See* Payment.

Settlement.

1. Upon marriage, a woman induced her husband to give up his only means of support, and thereafter for a time both were supported by the wife's mother. After the latter's death, the wife came into a large separate income. From the wife's misconduct the husband was obliged to leave her, and eventually a settlement was made whereby the husband was allowed a small annuity. Subsequently the wife became possessed of a further sum, and prayed the court to decree a settlement of the same upon her. *Held*, that under the circumstances the court would not deprive the husband of his right to said sum.—*Giacometti* v. *Prodgers*, L. R. 14 Eq. 253.

2. By a marriage settlement the wife's property was vested in trustees upon trust during the joint lives of the husband and wife for the separate use of the wife, and if there should not be any issue of the marriage, then in trust for the wife, her executors, administrators, and assigns, in case she survived the husband, but if she should not survive him, then to the husband for life, then to her kindred, subject to her appointment among them. The wife having obtained a divorce, *held*, that she was entitled to the whole property.—*Fussell* v. *Dowding*, L. R. 14 Eq. 421.

3. A husband and wife, having power of appointment over personalty, in favor of the children of the marriage, appointed a part of the property to trustees, on such trusts as their son H. should by deed appoint with the written consent of his father, and after the decease of said father, with the consent of the trustees under said father's will, or as said H. should by will appoint; and in default of appointment upon trust to pay the income thereof for life, or until bankruptcy, insolvency, or assignment; and on the decease of said H., if his interest should not have determined, to his executors or administrators, as part of his personal estate; but if such interest should have determined upon the like trusts as would have affected the residue of the same share, if the same had been appointed in favor of H. only during his life, or until the period of such determination. *Held*, that H. took an interest for life, liable to forfeiture on bankruptcy or assignment.

By settlement, husband and wife had a life-estate in realty, with power of appointment among children, and in default of appointment, in trust for the children, subject to parent's life interest, in equal shares, to vest at twenty-one or marriage. The settlement contained the usual power of sale and exchange, but no trust for sale. A son reached twenty-one and died intestate. Afterwards the husband and wife declared that the shares of persons interested in money arising from any sale of the premises should be "of the quality of personal and not of real estate." The real estates having been sold at the request of husband and wife, *held*, a good conversion as against the heir of the deceased son, the power of the settlor remaining until the end of his life.—*Webb* v. *Sadler*, L. R. 14 Eq. 533.

4. A covenant in marriage articles to settle real estate "upon his [the husband's] issue by said J. [the wife]," must be construed as a covenant for strict settlement, and prevents the husband creating charges in favor of younger children.—*Grier* v. *Grier*, L. R. 5 H. L. 688.

See Legacy, 5; Power, 1.

Shareholder.—*See* Company, 1, 4.

Shop.

The defendant owned a hall containing accommodation for about one hundred cattle. Adjoining was an open yard with fixed pens, capable of holding fourteen hundred sheep, and in which sheep were penned until required in the hall for sale. The defendant's dwelling-house adjoined, and communicated with said yard, but not with said hall. *Held*, that sheep sold in said hall were not sold in the defendant's "dwelling-place or shop" within St. 10 Vict. ch. 14.—*Fearon* v. *Mitchell*, L. R. 7 Q. B. 690.

Solicitor.—*See* Privileged Communications.

Specialty Debt.

A daughter was entitled, subject to her father's life interest, to trust funds, out of which the trustees had power to advance £2000 on the father's bond. The trustees advanced the £2000 accordingly, and further sums on the father's promissory notes. *Held*, that the daughter was entitled to said £2000 on her father's decease, as against specialty creditors. Otherwise as to the other advances.—*Ferguson* v. *Gibson*, L. R. 14 Eq. 379.

See Advance; Appointment.

Stamp.

The presumption is, that a lost instrument requiring a stamp, was stamped, in the absence of evidence to the contrary. But

when the absence of a stamp at any time is proved, the *onus* is shifted, and it must be proved that the instrument was stamped.—*Marine Investment Co.* v. *Haviside*, L. R. 5 H. L. 624.

Statute.—*See* Payment; Power; Shop; Street; Succession.

Statute of Limitations.—*See* Limitations, Statute of; Partnership, 3.

Street.

A railway company owned a piece of ground situated between the company's station and the public highway, from which it was separated by a gutter only. On this land the appellant allowed his hackney carriage to stand without license, as required by statute. *Held*, that said ground was not a "street, road, square, court, alley, thoroughfare, or public passage," within the meaning of the act.—*Curtis* v. *Embery*, L. R. 7 Ex. 369.

Succession.

A testator died in 1850, having devised his real estate to trustees to accumulate for twenty-one years, and then to convey to his then heir general; if more than one, as tenants in common. The testator's heir died before the expiration of said twenty-one years, and four coheiresses took the property in 1871. *Held*, that said coheiresses "became entitled" to the property upon the death of said heir, so as to render the property liable to succession duty.—*Ring* v. *Jarman*, L. R. 14 Eq. 357.

Surety.

Four directors of a company gave their note for £2000 to a bank by way of security for any balance which might be due from the company to the bank. The company was ordered to be wound up, and the bank proved for £3659, receiving a dividend of £1000. The bank then recovered the amount of said note from the directors. *Held*, that said directors were entitled to such a proportion of said dividend as the amount of their note bore to the amount proved by the bank.—*Gray* v. *Leckham*, L. R. 7 Ch. 680.

Title.—*See* Common.

Tort.—*See* Judgment.

Trade-mark.

1. A trade-mark was allowed in the word "Leopoldshall," as denoting a peculiar kind of salt, though in fact the word was the name only of the mine whence the salt came.—*Radde* v. *Norman*, L. R. 14 Eq. 348.

2. When a manufacturer has produced an article of merchandise, calling it by a particular name and selling it with a particular mark, he has acquired an exclusive right to such name and mark. If the use of such name and mark has been adopted by another person than the inventor thereof to sell goods of inferior quality but similar appearance, so that purchasers may be misled, the inventor of the name and mark is entitled to relief by injunction.—*Hirst* v. *Denham*, L. R. 14 Eq. 542.

Trover.—*See* Judgment.

Trust.

The defendants were trustees under the marriage settlement and will of G., with power to invest in government or real securities; and under the will the trustees were not to be liable for involuntary losses. The trustees advanced money from the blended funds on mortgage of a hotel. The trustees had sent a surveyor to value the hotel, and in his report the surveyor valued the hotel at nearly double said sum advanced, but included the estimated value of the license in the valuation. The property was worth about three-fifths of the sum advanced. *Held*, that the trustees were personally liable for the sum so advanced.—*Budge* v. *Gummow*, L. R. 7 Ch. 719.

See Charge; Executors and Administrators, 3; Partnership; Settlement, 2.

Vested Interest.—*See* Succession.

Ultra Vires.—*See* Company, 2.

Will.

A testator, after directing that his trustees should carry on his business for a period not longer than until his youngest child should reach the age of twenty-one years, and should then sell his business if it was not previously sold, and directing the conversion and investment of his estate, and giving an annuity to his wife, empowered his trustees to apply so much of the income as they should think fit, as a common fund for the maintenance and education of his children, accumulating the surplus income in aid of the common fund, and the income and accumulations ultimately unapplied to follow the destination of the capital, whence the same shall have arisen. The capital to be divided equally among his children on reaching the age of twenty-one years (or marrying, if daughters). Certain advances already made, to be brought into hotchpot. *Held*, that the accumulated income should be divided equally among the children, they giving credit for sums advanced for maintenance and education, with interest, and for interest from the testator's death on advances made by him, the capital of which advances was to be brought into hotchpot on the division of the capital of the estate.—*Hilton* v. *Hilton*, L. R. 14 Eq. 468.

See Contribution; Devise; Executors and Administrators, 1, 2; Power, 1, 3.

Winding up.—*See* Surety.

Witness.—*See* Libel, 2.

Words.

"*All and every other the Issue.*"—See Devise, 3.
"*Dwelling-place or Shop.*"—See Shop.
"*For Default of such Issue.*"—See Devise, 3.
"*Free Occupancy.*"—See Legacy, 5.
"*From the Loading.*"—See Insurance.
"*Inherent Vice.*"—See Carrier.
"*Issue.*"—See Devise, 3.
"*Other.*"—See Devise, 3.
"*Shipment.*"—See Contract.
"*Should die without Issue.*"—See Devise, 2.
"*Street, road, square, court, alley, thoroughfare, or public passage,*" *&c.*—See Street.
"*Upon his Issue.*"—See Settlement, 4.

REVIEWS.

A Treatise on the Law of Injunctions as administered in the Courts of the United States and England. By James L. High, Counsellor-at-Law, Chicago. Callaghan & Co., 1873.

This seems to be a most useful book; we have not had time, however, as yet, to examine it critically. We will refer to it again at length.

The Law Magazine and Review. Butterworths, Fleet Street, London, May and June, 1873.

These numbers contain a variety of articles more or less interesting to us in Canada. The June issue is the best of the two. We hope to find room for some of them: our readers, however, would do well to subscribe, and then they can make their own selection.

American Law Review—Little, Brown & Co., Boston. April, 1873.

The Essays in this number are entitled Recoupment—Suits between Aliens in the Courts of this Country—Contract by Letter—The Hyperion's Cargo, a merchant shipping case—State Taxation of National Banks, &c. Then there are the usual digests of English and American reports, Book Notices, Summary of Events, &c.

AUTUMN ASSIZES, 1873.

EASTERN CIRCUIT.—THE HON. THE CHIEF JUSTICE OF ONTARIO.

PERTH	Tuesday	9th September.
PEMBROKE	Tuesday	16th "
L'ORIGNAL	Wednesday	24th "
CORNWALL	Tuesday	30th "
OTTAWA	Tuesday	7th October.
BROCKVILLE	Monday	20th "
KINGSTON	Monday	27th "

MIDLAND CIRCUIT.—THE HON. MR. JUSTICE WILSON.

PICTON	Wednesday	10th September.
NAPANEE	Monday	15th "
WHITBY	Monday	22nd "
BELLEVILLE	Tuesday	30th "
COBOURG	Monday	13th October.
PETERBOROUGH	Monday	27th "
LINDSAY	Wednesday	5th November.

NIAGARA CIRCUIT.—THE HON. MR. JUSTICE MORRISON.

OWEN SOUND	Tuesday	9th September.
BARRIE	Tuesday	16th "
MILTON	Monday	22nd "
HAMILTON	Monday	29th "
ST. CATHARINES	Tuesday	14th October.
WELLAND	Tuesday	28th "

OXFORD CIRCUIT.—THE HON. THE CHIEF JUSTICE OF THE COMMON PLEAS.

SIMCOE	Thursday	25th September.
CAYUGA	Tuesday	30th "
BRANTFORD	Monday	6th October.
WOODSTOCK	Monday	13th "
STRATFORD	Monday	20th "
BERLIN	Monday	27th "
GUELPH	Monday	3rd November.

WESTERN CIRCUIT.—THE HON. MR. JUSTICE GALT.

SANDWICH	Tuesday	16th September.
CHATHAM	Tuesday	23rd "
WALKERTON	Tuesday	30th "
LONDON	Monday	6th October.
ST. THOMAS	Wednesday	22nd "
SARNIA	Wednesday	29th "
GODERICH	Wednesday	5th November.

HOME CIRCUIT.—THE HON. MR. JUSTICE GWYNNE.

BRAMPTON	Tuesday	16th September.
TORONTO	Tuesday	14th October.

CHANCERY AUTUMN CIRCUITS, 1873.

THE HON. VICE-CHANCELLOR BLAKE.

TORONTO	Monday	November 3rd.

THE HON. THE CHANCELLOR.

WESTERN CIRCUIT.

GODERICH	Thursday	September 18th.
STRATFORD	Tuesday	September 23rd.
WOODSTOCK	Friday	September 26th.
CHATHAM	Thursday	October 2nd.
SANDWICH	Wednesday	October 8th.
SARNIA	Friday	October 17th.
LONDON	Tuesday	October 21st.
WALKERTON	Thursday	October 30th.

THE HON. VICE-CHANCELLOR STRONG.

HOME CIRCUIT.

OWEN SOUND	Wednesday	October 1st.
SIMCOE	Wednesday	October 8th.
GUELPH	Wednesday	October 15th.
WHITBY	Wednesday	October 22nd.
BRANTFORD	Wednesday	October 29th.
BARRIE	Wednesday	November 5th.
ST. CATHARINES	Wednesday	November 12th.
HAMILTON	Wednesday	November 19th.

THE HON. VICE-CHANCELLOR BLAKE

EASTERN CIRCUIT.

OTTAWA	Wednesday	September 6th.
CORNWALL	Monday	September 22nd.
BROCKVILLE	Thursday	September 25th.
KINGSTON	Monday	September 29th.
BELLEVILLE	Monday	October 13th.
PETERBOROUGH	Friday	October 17th.
LINDSAY	Wednesday	October 22nd.
COBOURG	Monday	October 27th.

LAW SOCIETY OF UPPER CANADA.

Osgoode Hall, Hilary Term, 36th Victoria.

DURING this Term, the following Gentlemen were called to the Degree of Barrister-at-Law :

Robert Heber Bowes.
Allan John Lloyd.
James R. Roaf.
John George Killmaster.
Isaac Baldwin McQuesten.

And the following Gentlemen received Certificates of fitness :

R. McMillan Fleming.
J. Bruce Smith.
J. George Killmaster.
James R. Roaf.
Allan J. Lloyd.
Isaac B. McQuesten.
Peter Cameron.
Rupert E. Kingsford.
Alexander Sampson.
Wicksteed.

And on Tuesday, the 4th February, the following Gentlemen were admitted into the Society as Students of the Laws, their Examinations having been classed as follows :

University Class.

James Joseph Wadsworth, M. A.
Alexander Haggart, B. A.
Samuel Clarke Biggs, B. A.
Elliott Travers, B. A.
Julius Lefebvre, B. A.

Junior Class.

Charles H. Connor.
Thomas G. Meredith.

Ordered, That the division of candidates for admission on the Books of the Society into three classes be abolished.

That a graduate in the Faculty of Arts in any University in Her Majesty's Dominion, empowered to grant such degrees, shall be entitled to admission upon giving a Term's notice in accordance with the existing rules, and paying the prescribed fees, and presenting to Convocation his diploma or a proper certificate of his having received his degree.

That all other candidates for admission shall pass a satisfactory examination upon the following subjects, namely, (Latin) Horace, Odes Book 3 ; Virgil, Æneid, Book 6 ; Cæsar, Commentaries Books 5 and 6 ; Cicero, Pro Milone. (Mathematics) Arithmetic, Algebra to the end of Quadratic Equations ; Euclid, Books 1, 2, and 3. Outlines of Modern Geography, History of England (W. Douglas Hamilton's) English Grammar and Composition.

That Articled Clerks shall pass a preliminary examination upon the following subjects :—Cæsar, Commentaries Books 5 and 6 ; Arithmetic ; Euclid, Books 1, 2, and 3 ; Outlines of Modern Geography, History of England (W. Douglas Hamilton's) English Grammar and Composition, Elements of Book-keeping.

That the subjects and books for the first Intermediate Examination shall be :—Real Property, Williams; Equity, Smith's Manual ; Common Law, Smith's Manual ; Act respecting the Court of Chancery (C. S. U. C. c. 12), (C. S. U. S. caps. 42 and 44).

That the subjects and books for the second Intermediate Examination be as follows :—Real Property, Leith's Blackstone, Greenwood on the Practice of Conveyancing (chapters on Agreements, Sales, Purchases, Leases, Mortgages, and Wills); Equity, Snell's Treatise ; Common Law, Broom's Common Law, C. S. U. C. c. 88, Statutes of Canada, 29 Vic. c. 28, Insolvency Act.

That the books for the final examination for students at law, shall be as follows :—

1. For Call.—Blackstone Vol. i., Leake on Contracts, Watkins on Conveyancing, Story's Equity Jurisprudence, Stephen on Pleading, Lewis' Equity Pleading, Dart on Vendors and Purchasers, Taylor on Evidence, Byles on Bills, the Statute Law, the Pleadings and Practice of the Courts.

2. For Call with Honours, in addition to the preceding —Russell on Crimes, Broom's Legal Maxims, Lindley on Partnership, Fisher on Mortgages, Benjamin on Sales, Jarman on Wills. Von Savigny's Private International Law (Guthrie's Edition), Maine's Ancient Law.

That the subjects for the final examination of Articled Clerks shall be as follows :—Leith's Blackstone, Watkins on Conveyancing (9th ed.), Smith's Mercantile Law, Story's Equity Jurisprudence, Leake on Contracts, the Statute Law, the Pleadings and Practice of the Courts.

Candidates for the final examinations are subject to re-examination on the subjects of the Intermediate Examinations. All other requisites for obtaining certificates of fitness and for call are continued.

That the Books for the Scholarship Examinations shall be as follows :—

1st year.—Stephen's Blackstone, Vol. i., Stephen on Pleading, Williams on Personal Property, Griffith's Institutes of Equity, C. S. U. S. c. 12, C. S. U. C. c. 43.

2nd year.—Williams on Real Property, Best on Evidence, Smith on Contracts, Snell's Treatise on Equity, the Registry Acts.

3rd year.—Real Property Statutes relating to Ontario, Stephen's Blackstone, Book V., Byles on Bills, Broom's Legal Maxims, Story's Equity Jurisprudence, Fisher on Mortgages, Vol. 1, and Vol. 2, chaps. 10, 11 and 12.

4th year.—Smith's Real and Personal Property, Russell on Crimes, Common Law Pleading and Practice, Benjamin on Sales, Dart on Vendors and Purchasers, Lewis' Equity Pleading, Equity Pleading and Practice in this Province.

That no one who has been admitted, on the books of the Society as a Student shall be required to pass preliminary examination as an Articled Clerk.

J. HILLYARD CAMERON,
Treasurer.