RECENT CASES.

CONTRACTS.

Contract—Breach of Promise of Marriage.—Yale v. *Curtiss*, 45 N. E. Rep. 1125 (N. Y.). The New York Court of Appeals, in this case, takes a view at variance with that of courts generally and refuses to infer an engagement to marry from such circumstances as usually attend an engagement.. In the language of Judge Haight, "A formal offer and acceptance is not necessary, but there must be an offer and acceptance 'sufficiently disclosed or expressed to fix the fact that they were to marry as clearly as if put in formal words.' * * * Mere courtship, or even intention to marry, is not sufficient to constitute a contract." There must be a meeting of the minds as in any other contract. 24 N. Y. Sup. 981, reversed.

Insurance—Breach of Conditions—Assignment for Benefit of Creditors.—Milwaukee Trust Co. et al. v. *Lancashire Ins. Co. et al.*, 70 N. W. Rep. 81 (Wis.). Conditions in insurance policies providing that they shall be void in case of assignments, unless provided by agreement indorsed on the policies, cover assignments for the benefit of creditors, even though such assignments may be void for fraud or by statute.

Pawnbrokers—Usury—Collateral Contracts.—Stich et al. v. *Sarnek*, 43 N.Y. Sup. 1068. A contract by which a coat is pledged to a pawnbroker at the maximum legal rate of interest, and providing for an additional charge of twelve cents for insurance against moths is valid if made in good faith.

CONVEYANCES.

Deeds—Delivery—Deputy Clerk.—Robbins v. *Rascoe*, 26 S. E. Rep. 807 (N. C.). A deed of gift was handed by the grantor to a deputy clerk of court to be proved and registered before the clerk, but was recalled by the grantor before probate or registration. The grantee was ignorant of the deed until after its recall. Held, that the delivery of the deed was complete on its commission to the deputy clerk, an acceptance by the grantee not being essential to complete delivery.

Mortgages—Assumption—Remedy of Mortgagee—Statute of Frauds.—Flint v. *Winter Harbor Land Co.*, 36 Atl. Rep. 634 (Me.). A deed conveyed land subject to a mortgage, "which said mortgage this grantee, by acceptance of this deed, hereby assumes and agrees to pay and fully discharge." Held, that the mortgagee could hold both the mortgagor and the grantee liable in equity or either liable in assumpsit and that after foreclosure, if the property was of less value than the debt, he could recover the deficiency from either or both in equity. The debt is part of the purchase money and the promise is not to pay the debt of another within the Statute of Frauds.

Chattel Mortgage of Sheep.—First Nat. Bank of Santa Ana v. *Errica et al.*, 47 Pac. Rep. 926 (Cal.). A chattel mortgage upon sheep does not extend by implication to wool growing upon them after the mortgage, nor to lambs in gestation at date of mortgage, according to an extension of the principle in *Shorbert* v. *DeMotta*, 112 Cal. 215, 44 Pac. 487, where such a mortgage was held not to cover lambs subsequently born.

Joint Will—Probate.—In re Davis' Will, Ia. Appeal of Hodges, 26 S. E. Rep. 636 (N. C.). An instrument purporting to be the joint will of two parties cannot be probated as a joint will during the life of one of the parties. Such writing may be proved as the separate will of one of the parties on his death, while the other is living.

DAMAGES.

Common Carriers—Delay in Delivery—Damages.—Mitchell v. *Weir*, 43 N. Y. Sup. 1123. Plaintiff shipped by defendant company a bicycle to be used by her during her vacation, she being unable to use it at any other time. There was a failure to deliver the bicycle; at the close of her vacation company offered to deliver it, which was refused. Plaintiff was unable to get another bicycle to ride. Held, that the above facts brought the case within the rule of damages for failure to deliver on the part of the carrier and that damages to the value of the bicycle should be assessed.

Action—Damnum absque Injuria—Expenses of Litigation.—Andrus v. *Bay Creek Ry. Co.*, 36 Atl. Rep. 826 (N. J.). A railway company, after having instituted condemnation proceedings to secure certain land for its use, discontinued such proceedings, thereby put-

ting the owner of the land to needless expense for counsel fees and other incidentals. An action in tort was brought to recover damages for this loss to the landowner, and the case was held to be one of *damnum absque injuria.* The English courts maintain, in similar cases, a rule quite as stringent as this (2 Addison on Torts, § 863).

Assessment—Rule in Assessment of Mill Property.—Troy Cotton & Woolen Manufactory v. *City of Fall River*, 46 N. E. Rep. 99 (Mass.). It is found that the land, buildings and machinery of a mill, which are subject to local taxation, are in the aggregate more valuable when kept together and used for mill purposes, than if one is separated from the other, and when all are owned by the same person or corporation each item should be valued as it is used in connection with the others, though the land alone would be more valuable for other purposes. The court extends the rule declared in *Tremont and Suffolk Mills* v. *City of Lowell*, 163 Mass. 283, 39 N. E. 1028, to the machinery used in manufacturing establishments which is locally taxable in connection with the land and buildings thereon.

Master and Servant—Wrongful Discharge.—Tickler v. *Andrae Manuf'g Co.*, 70 N. W. Rep. 292 (Wis.). In an action for wrongful discharge a servant cannot recover his expenses in seeking other employment, even though his wages in such other employment are charged in reduction of his damage.

NEGOTIABLE PAPER.

Check—What Constitutes—Indorsement on Architect's Certificate.—Industrial Bank of Chicago v. *Bower*, 46 N. E. Rep. 10 (Ill.). An architect's certificate recited that a certain sum was due the contractor, the E. B. Co. P. H. & Co. had made a building loan to the owner which was drawn on such certificates as needed. The owner wrote on the back of the certificate: "P. H. & Co., Pay to the order of the E. B. Co., John R. Bowes." Held, that although the drawees were not bankers, the indorsement constituted a check and not a bill of exchange. 64 Ill. App. 300 reversed.

Note—Sufficiency of Consideration.—Irwin v. *Lombard University*, 46 N. E. Rep. 63 (Ohio). A note given for certain defined educational purposes, which were carried out, is upon a sufficient con-

sideration. *Johnson* v. *Otterbein Univ.*, 41 Ohio St. 527, disapproved. *Methodist Episcopal Church* v. *Kendall* (Mass.) holds the contrary.

MISCELLANEOUS.

Constitutional Law—Right to Jury Trial—Liquor License—Forfeiture.—Voight v. *Board of Excise Commissioners of City of Newark*, 36 Atl. Rep. 686 (N. J. Sup.). A statute providing for the forfeiture of liquor licenses and that the body which granted the license shall on the complaint of three resident voters investigate the acts alleged to have worked such forfeiture, and if defendant is found guilty, revoke his license, does not contravene the constitutional right of trial by jury, and the licensing body need not wait for the action of the criminal courts. See *People* v. *Board of Commis., etc., of Brooklyn*, 59 N.Y. 96, for a somewhat similar statute upheld.

Anti-Trust Act—Interstate Commerce.—United States v. *Addyston Pipe and Steel Co.*, 78 Fed. Rep. 712. Where several corporations engaged in the manufacture of cast-iron pipes formed an association whereby they agreed not to compete with each other in regard to work done or pipes furnished in certain states and territories, and to make effectual the objects of the association, agreed to charge a bonus which was to be added to the real market price of the pipe sold by those companies, the combination was not a violation of the "Anti-Trust" act, as it affected interstate commerce only incidentally.

Trade Marks—Infringement.—City of Carlsbad v. *Schultz*, 78 Fed. Rep. 469. One who sold artificial "Carlsbad" water five years before the importation of the real article has a right to continue his business and cannot be restrained from using the name "Carlsbad," provided it is accompanied with an adjective such as "artificial" printed as conspicuously.

Customs Duties—Vessels or Yachts.—The Conqueror, 17 Sup. Ct. Rep. 510. Vessels and ships are not dutiable under tariff act of Oct. 1, 1890 (26 Stat. 567), not being scheduled *eo nomine* under "articles;" nor can the fact that a pleasure yacht was purchased abroad and brought to this country by an American be applied as a test of dutiability.