

given for the sole purpose of securing a prior debt of the husband's, and no consideration was received by her, or given by the mortgagee. After the death of the father, the mortgagee claimed her share of the real estate. *Held*, that he was not a purchaser for value, and that the mortgage did not enable him to hold against her the share of her father's lands, which descended to her at his death: *Bayler vs. The Commonwealth for use, &c.*

Where a deed does not undertake to convey an existing estate, and the subject of the grant is only an expectancy, the deed is executory only, and nothing more than a covenant for future conveyance; for the grant and the covenant contemplate the assurance of an estate which might possibly be thereafter acquired, either by descent or will, an assurance necessarily future, and inoperative at law: *Ib.*

Though a conveyance of an expectancy, as such, is impossible at law, yet it may be enforced in equity as an executory agreement to convey, if it be sustained by a sufficient consideration: *Ib.*



ABSTRACTS OF RECENT ENGLISH DECISIONS.

CROWN CASES RESERVED.

Embezzlement—Master and Servant—Partnership.—The prisoner, the cashier and collector of a manufacturing firm, had, in addition to a fixed yearly salary, a per-centage on the profits made by the firm, but was not to be liable for its losses. He had no control over the management of the business. *Held*, that he might be indicted as a servant for embezzling the moneys of the firm: *The Queen vs. Macdonald, Nov. 9, 1861.*¹

Embezzlement—Secretary—Member of Friendly Society.—The prisoner was a member of a duly certified friendly society. He was also paid secretary to the society. His duty, among other things, was to keep correct accounts of the receipts and expenditure of the society, to receive the moneys weekly from members, and to pay what was due from the society, and weekly to place the balance in the society's box, which was left in the lodge room. He appropriated to his own use certain sums paid in by

¹ 31 L. J., Mag. Cases, 67.

members, and omitted to enter them as received in the society's books. *Held*, that he might be convicted of embezzling the money: *The Queen vs. Proud*, Nov. 21, 1861.¹

Poison—Administering Cantharides to a Female with Intent to excite her Sexual Passions.—If a man administers cantharides to a female with intent to excite her sexual passions in order that he may obtain connexion with her, he is punishable under the statute 23 Vict. c. 8, s. 2, which makes it a misdemeanor to administer to any person any poison or other destructive or noxious thing with intent to injure, aggrrieve or annoy such person: *The Queen vs. Wilkins*, Nov. 21, 1861.²

Indictment—Felony—Verdict of Guilty of Attempt—Stat. 24 and 25 Vict., c. 96, s. 57.—The prisoner was indicted under the stat. 24 and 25 Vict., c. 96, s. 57, for breaking and entering a shop, with intent to commit a felony, viz. to steal. It was proved that the prisoner broke in the roof, with intent to enter and steal, and was then disturbed; but there was no evidence that he ever entered the shop. *Held*, that the prisoner might be convicted of the misdemeanor of attempting to commit a felony: *The Queen vs. Bain*, Jan. 18, 1862.³

False Pretences—Offence, where Triable—Wrong Venue—24 and 25 Vict., c. 96, s. 114.—One who obtains goods by false pretences, in one county, and afterwards brings them into another county, where he is apprehended with them, cannot be indicted for the offence in the latter county, but must be indicted in the county where the goods were obtained: *The Queen vs. Stanbury*, Jan. 18, 1862.⁴

Attempt to steal—What sufficient to constitute.—The prisoner was a servant to a contractor who supplied meat to the camp at S. The course of business was for the contractor each morning to send by a servant a quantity of meat to the quartermaster-sergeant at the camp, and a soldier from each mess attended. The quartermaster-sergeant had his own scales and weights; with these he and the contractor's servant weighed out the proper quantity of meat for each mess respectively, which, after being weighed, was delivered to the soldier in attendance for the mess. The account of the whole meat so delivered was credited to the contractor as supplied to the Queen. The surplus meat remaining after the messes had

¹ 31 Law J., Mag. Cases, 71.

³ 31 Law J., Mag. Cases, 88.

² 31 Law J., Mag. Cases, 72.

⁴ 31 Law J., Mag. Cases, 88.

been supplied, used to be taken back by the contractor's servant. On one occasion of a weighing, the prisoner being in charge of the meat, and being the person who put the weights into the scale, fraudulently and with intent to cheat, put a false weight into the scale instead of the true one of the quartermaster-sergeant; so that when all the messes had been supplied 60 lb. of meat remained over, instead of 15 lb. A complaint having been made by a soldier, of short weight during this weighing, an investigation took place at its close, and the fraud was discovered. The prisoner absconded at the commencement of the investigation. The intention of the prisoner was to steal the difference between the just surplus of 15 lb. and the actual surplus of 60 lb. Nothing remained to be done by him to complete his scheme, except to carry away and dispose of the meat, which he would have done if the fraud had not been detected. *Held*, that on these facts the prisoner was rightly convicted of attempting to steal 45 lb. of meat, the property of the contractor; *The Queen vs. Cheeseman, Jan. 18, 1862.*¹

Receiving Stolen Goods—Receipt by Wife in Absence of Husband—Ratification.—A wife, in the absence of her husband, and without his knowledge, received stolen goods, and paid money on account of them. The thief and husband afterwards met. The latter then learnt that the goods were stolen, and he agreed on the price which he was to pay for them, and paid the balance to the thief. *Held*, that on these facts, the husband might be convicted of receiving the goods, knowing them to be stolen: *The Queen vs. Woodward, Jan. 18, 1862.*²

Perjury—Materiality—False Evidence improperly admitted.—On the hearing of an application for an order of affiliation against H. in respect of a full-grown bastard child born in March, the mother, in answer to questions put to her in cross-examination, denied having had carnal connexion with G. in the September previous to the birth. G. was called to contradict her: the Justices admitted his evidence, and he wilfully and falsely swore that he had had carnal connexion with her at the time specified. *Held*, by eleven of the Judges (Crompton, J., and Martin, B., dissenting,) that, although the evidence of G. ought not to have been admitted to contradict the mother on a matter which went only to her credit, still, as it was admitted, it was evidence material to her credit;

¹ 31 L. J., Mag. Cases, 89.

² 31 L. J., Mag. Cases, 91.