a decree. *Grice* v. *Woodworth et ux.* (1905), — Idaho —, 80 Pac. Rep. 912.

In view of the Idaho Statutes and the generally prevailing doctrines regarding the alienation of the homestead, the soundness of this decision is certainly questionable. The statutes provide that the homestead cannot be conveyed or incumbered unless the instrument by which it is conveyed, etc., is executed and acknowledged by both husband and wife; the wife's acknowledgment must be on her separate examination; the homestead can be abandoned only by a declaration of abandonment or a grant or conveyance executed and acknowledged by both husband and wife, if the claimant is married. Under statutes less stringent it has been held that the husband's contract for the sale of the homestead is void, whether the contract be oral (*Stickley* v. *Widle,* 122 Ia. 400) or written (*Webster* v. *Warner,* 119 Mich. 461, *Meek* v. *Lange,* 65 Neb. 783); and, while in some states there may be an abandonment of the homestead so that title to it will pass under an oral contract of sale followed by possession (*Alvis* v. *Alvis,* 123 Ia. 546), yet where there is provided an express statutory method of waiver or abandonment this should be exclusive of any other. *Lewis* v. *Mauerman* (1904), 35 Wash. 156; *Wilkins* v. *Fremaux* (1904), 112 La. 921; *Mellen* v. *McMannis,* (Id.) 75 Pac. Rep. 98. The COURT in the principal case considers that the wife was estopped by her conduct to deny the plaintiff's equitable title, but, as pointed out by AILSHIE, *J.* in dissent, she did nothing to induce plaintiff to enter into the contract or part with money, and her declaration of homestead was of record. Plaintiff appears to have been entitled to no more than he obtained in the lower court: the amount paid for the property and improvements less a reasonable rental.

HUSBAND AND WIFE—LIABILITY OF HUSBAND FOR THE SUPPORT OF HIS INSANE WIFE WHILE IN ASYLUM.—Appellant's wife was in due form committed to the LaCrosse County Asylum for the Insane. An action was brought by the trustees of the asylum to collect from the husband the expense of her board and care. *Held,* that there was no common-law liability of the husband to support the wife while away from the matrimonial home without his fault or his consent, and in the absence of statute the action could not be maintained. *Richardson et al.* v. *Stuesser* (1905), — Wis. —, 103 N. W. Rep. 261.

The Iowa, Indiana and Nebraska decisions are to the effect that there is no common-law liability in cases of this kind. *The County of Delaware* v. *McDonald,* 46 Iowa 170; *The Board of Commissioners of Noble County* v. *Schmoke,* 151 Ind. 416; *Board of Commissioners of Marshall County* v. *Burkey, Adm'r,* 1 Ind. App. 565; *Baldwin* v. *Douglas County,* 37 Neb. 283, 55 N. W. Rep 875, 20 L. R. A. 850. In the New England States and a few others it is well settled that there is a common-law liability and such an action can be maintained. *Rumney* v. *Keyes,* 7 N. H. 571; *Alna* v. *Plummer,* 4 Greenl. 258; *Bangor* v. *Wiscasset,* 71 Me. 535; *Brookfield* v. *Allen,* 6 Allen (Mass.) 585; *Senft.* v. *Carpenter,* 18 R. I. 545, 28 Atl. Rep. 963; *Wray* v. *Wray,* 33 Ala. 187; *Schelling* v. *County of Kankakee,* 96 Ill. App. 432; *Davis* v. *St. Vincent's Inst. for Insane,* 61 Fed. 277, 9 C. C. A. 501; *Goodale* v. *Lawrence,* 88 N. Y. 513, 42 Am. Rep. 259, overruling former decisions

of the New York courts in *Goodale* v. *Brockner,* 25 Hun 621; *Norton* v. *Rhodes,* 18 Barb. 100. In California there is a statutory liability in such a case. *Watt* v. *Smith,* 89 Cal. 602, 26 Pac. Rep. 1071. In Nebraska such a statute placing a liability upon the husband for support of the wife while in a state asylum has been held unconstitutional as being a special tax. *Baldwin* v. *Douglas County,* 37 Neb. 283.

HUSBAND AND WIFE—WIFE'S EARNINGS.—Defendant's intestatee was a feeble woman, living in the upper story of the same house with plaintiff, who was accustomed to care for her and her rooms and to prepare her meals, carrying them up from her own room. At the time of the rendition of the services, plaintiff was a married woman, living with her husband. Action was brought, under the statute, making the earnings of a married woman her separate property and giving her an action therefor. (L. 1860, Ch. 90 § 2). *Held,* (three judges dissenting), (1) that there was no presumption under the statute that the earnings of the wife still belonged to the husband, (2) the fact that she did this work with the knowledge of the husband was sufficient evidence to show an election by the wife to pursue a separate calling. *Stevens* v. *Cunningham* (1905), 181 N. Y. 454, 74 N. E. Rep. 434.

These services were performed before the enactment of the later statute, (L. 1902, Ch. 289 § 30), expressly providing that the presumption shall be that the wife is alone entitled to her earnings. The Supreme Court (75 Hun 125, 74 N. Y. Supp. 364) held that there was a presumption that the earnings of the wife belonged to the husband as was evidenced by the enactment of the later statute. This would seem to be in line with the former holdings of the New York Courts. *Porter* v. *Dunn,* 131 N. Y. 314; *Birkbeck* v. *Ackroyd,* 74 N. Y. 356, 30 Am. Rep. 304; *Stamp* v. *Franklin,* 144 N. Y. 607; *Reynolds* v. *Robinson,* 64 N. Y. 589. This is also the holding in some of the other states. *Poffenberger* v. *Poffenberger,* 72 Md. 321; *McClusky* v. *Provident Inst. for Savings,* 103 Mass. 300; *Brittain* v. *Crowther,* 54 Fed. 295. But see *Brooks* v. *Schwerin,* 54 N. Y. 343; *Lewis' Estate—Rhodes' Appeal,* 156 Pa. St. 337, 27 Atl. Rep. 35.

INNKEEPER—LIABILITY TO GUESTS FOR INJURIES INFLICTED BY SERVANT.—Plaintiff, his wife, and his six year old son were guests in the defendant's hotel. The boy out of curiosity wandered into a room where two employees, off duty at the time, were amusing themselves. One of these in jest threatened him with a pistol, an accidental discharge of which destroyed the boy's sight in one eye and otherwise injured him. In this action for damages for the injury, *Held,* that the defendant is liable. *Clancy* v. *Barker et al.* (1905), — Neb. —, 103 N. W. Rep. 446.

On the first hearing of this case (98 N. W. Rep. 440) the court unanimously held the defendant accountable, but on this rehearing BARNES J., dissents. He was confessedly influenced by a decision pronounced upon the same facts in a Federal court between the hearing and rehearing. *Clancy* v. *Barker* (1904), 131 Fed. Rep. 161, which was an action for the injured boy by the present plaintiff as his next friend. The Federal court had repudiated the first Nebraska decision as no law, and deprecated it as