

Summary of Marriage Settlement

By Indenture dated 6 April 1825 made between the Rev Christopher Rigby Collins of the Royal Crescent in the city of Bath clerk of the first part; the Rev John Gardiner of the same city D.D of the second part; Christopher Gerard Rigby Collins of the city of Bath esq son of said Rev Christopher Rigby Collins of the third part; Annabella Mary Gardiner of the city of Bath spinster daughter of the said Rev John Gardiner of the fourth part; the Rev William Collins Colton of Middle Hill parish of Box in the county of Wilts clerk and William Gardiner of Exeter College Oxford esq (therein described as Trustees appointed for the purposes therein mentioned) of the fifth part:

Reciting therein on the then intended marriage of Christopher Gerard Rigby Collins and Annabella Mary Gardiner. And for securing a provision for CGR Collins and AM Gardiner his intended wife and the issue of such marriage. It was agreed on execution of the now abstracting Indenture of Settlement that John Gardiner pay CR Collins £2000 for own use and to execute a bond for £4000 payable to CR Collins within 6 months next after the decease of him said John Gardiner. And it was agreed CR Collins secure an annuity of £570 unto CGR Collins and AM Gardiner and to execute a bond to pay William Collins Colton and William Gardiner £12000 within six months next after the decease of him CR Collins.

It was witnessed in pursuance of said agreement John Gardiner did for himself his heirs executors covenant with CR Collins and for securing payment did become bound unto CR Collins his executors etc in the penal sum of £8000. Also witnessed for the purpose of raising and securing a provision for CGR Collins and his intended wife and the issue if any of said marriage that after the decease of CR Collins his executors to pay William C Colton and William Gardiner the sum of £12000 and for securing same did by his bond become bound unto them in the penal sum of £24000 covenanted to be void on payment of said £12000.

To the uses and upon the trusts that in case there not be any child of the then intended marriage or there being any such if all the sons die under 21 without leaving lawful issue and all the daughters die under that age and unmarried then all and every uses trusts powers provisoes directions and agreements thereinbefore declared of or in any wise concerning the same children respectively should cease determine and be utterly void to all intents and purpose as fully and effectually as if the same had never existed and the said abstracting Indenture of Settlement had not been made and executed and that then and in such event they the said William C Colton and William Gardiner and the survivor or executors or others the Trustees should stand possessed of or interested in said principal sum of £12000 or the stocks funds and securities on which same might be then invested in manner following.

As to the sum of £11000 part of the principal sum of £12000 in Trust to pay assign transfer and make over the same or the stocks funds and securities together with the interest and dividends if any thereof but subject at all times to the life interest of Annabella Mary Gardiner and also subject to the proviso last thereinbefore contained and hereinbefore mentioned unto Christopher Gerard Rigby Collins to and for his own absolute use benefit disposal or as he should direct. As to the remaining £1000 residue or of stocks funds securites aforesaid in trust for the benefit of John Gardiner or as he should direct.

And it was by the now abstracting Indenture of Settlement expressly declared and agreed between all the parties and particularly by and on the respective parts and behalves of the Rev Chistopher Rigby Collins and the Rev John Gardiner that in case Annabella Mary Gardiner should depart this life without leaving issue of the intended marriage living to attain such vested interest in said £12000 then CR Collins his executors should (in case John Gardiner be also then dead and CR Collins had received said £4000) repay refund return said sum in such manner and form as had been directed. In case of default by CR Collins his executors in repayment contrary to the true intent meaning of the Indenture of Settlement it was declared to be lawful for the Trustees to deduct and retain the £4000 from said £11000.

Should John Gardiner be living at the time of the decease of his daughter Annabella Mary Gardiner without leaving issue said sum to be delivered up to him or any person persons whom he might appoint to receive the same for the purpose of being cancelled and destroyed and thereupon the said John Gardiner his heirs executors and administrators and every of them should stand and be wholly acquitted released and discharge of and from the payment of the said sum of £4000 and every part thereof. Executed by all parties and duly attested

Summary of Indenture dated 10 May 1832

By Indenture made between the Rev Christopher Rigby Collins of Sidmouth, Devon of the first part, Christopher Gerard Rigby Collins of Sidmouth, Devon of the second part, Robert Austin Langworthy of Bath, Somerset and Elizabeth his wife of the third part, William Webster of 17 Bedford Place, Russell Square, Middlesex a Lieutenant in the Royal Navy and Mary Beata his wife of the fourth part, the Rev John Walker Phelps of Rennes in the Kingdom of France and Sarah his wife of the fifth part, William Somerville Ahmuty of Cookstown in the Kingdom of Ireland and Edith his wife of the sixth part, William Bird Brodie of New Sarum, Wilts of the seventh part, and Charles George Brodie of New Sarum, Wilts trustee of the eighth part:

Whereas Benjamin Charles Collins bookseller and printer formerly of New Sarum was at the time of the execution of his Will entitled to the messuage tenement and hereditament hereinafter described and entitled to a fifth part or share that is now intended to be hereby released in such manner as the law requires for rendering valid devises of freehold estates; and did duly sign and publish his last Will and Testament dated 19 August 1796 and bequeathed unto Mary Collins since dec'd, Sir George Staunton Baronet since dec'd, Peter Bellinger Brodie since dec'd, the Rev Barfoot Colton since dec'd and his brother William Collins since dec'd all his estate and effects both real and personal their heirs executors assigns equally share and share alike as Tenants in Common.

And whereas Benjamin Charles Collins signed and published a codicil dated 7 November 1796 revoking the bequest made to Peter Bellinger Brodie but did not make any devise of the share; and whereas the Will and codicils were duly proved in the Prerogative Court of Canterbury by Townley Ward one of the executors; and whereas Sir George Staunton and Barfoot Colton both died in the lifetime of Benjamin Charles Collins and their shares descended to Dame Jane Staunton widow of Sir George Staunton, Sarah Brodie and Charlotte Bacon the three sisters and co-heirs of Benjamin Charles Collins and the real estates passed by the said Will to the said Mary Collins and William Collins respectively as Tenants in Common.

And said William Collins having one fifth part of property hereinafter mentioned made and published his Will dated 12 July 1810 and bequeathed unto Christopher Rigby Collins, described as the husband of the said Testator's **daughter Eliza**, all his estate in trust for Christopher Rigby Collins' children by his said wife. And whereas William Collins departed this life August 1810 and Eliza Rigby Collins departed this life August 1827 And whereas Christopher Rigby Collins had issue by Eliza his wife six children namely Christopher Gerard Rigby Collins, Elizabeth Langworthy, Mary Beata Webster, Sarah Phelps and Edith Ahmuty and Henry Collins who died under 21 years without issue.

Christopher Rigby Collins, Christopher Gerard Rigby Collins, Robert Austen Langworthy, William Webster, John Walter Phelps and William Somerville Ahmuty did covenant promise and agree and hereby released all said messuages and ground whereon same stands and garden with appurtenances situate lying and being within city of New Sarum in a certain street or place lately called the Ditch but now the New Canal divided and bounded between lands formerly of Robert Baynes on the west part, the lands of the Lord Bishop of Sarum on the east part, the land formerly of Lord Staunton on the south part and the said street a highway lately called the Ditch but now the New Canal on the north part. All which messuages or tenement and hereditaments were formally in the occupation of Benjamin Charles Collins, afterward of William Bird Brodie, John Dowding and John Luxford, since of William Bird Brodie and Charles George Brodie together with one like undivided fifth part or share of and in all houses shops counting-houses hereditaments and appurtenances buildings stables yards gardens ways paths passages

Summary of Final Agreement dated 30 October 1832

This is the final Agreement made in the Court of our Sovereign Lord the King at Westminster on the 30th day of October in the third year of the reign of William the Fourth by the grace of God of the United Kingdom of Great Britain and Ireland King Defender of the Faith before Nicolas Conyngham Tindal, James Allan Park, Stephen Caselee, John Bernard Bosanquet, Edward Hall Alderson, Justices of our Lord the King and others then and there present Between William Bird Brodie and Christopher Gerard Rigby Collins, Robert Austen Langworthy and Elizabeth his wife, William Webster and Mary Beata his wife, John Walter Phelps clerk and Sarah his wife, and William Somerville Ahmuty and Edith his wife of one undivided fifth part of messuage with appurtenances in the city of New Sarum. Whereupon a Plea of Covenant was summoned between them in the same Court that they acknowledged the said one fifth part with appurtenances to be the right of him the said William Bird Brodie and they each remised and quit-claimed to him and his heirs for ever. And for this acknowledgment remise quit-claim warranties fine and agreement William Bird Brodie hath given to the aforesaid the sum of sixty pounds sterling

Three documents re one undivided fifth part of messuage with appurtenances in New Sarum (Salisbury) to William Bird Brodie:

Summary of Indenture dated 9 May 1832

This Indenture made 9 May in the second year of the reign of our Sovereign Lord William IV by the grace of God of the United Kingdom of Great Britain and Ireland King and Defender of the faith and in the year of our Lord 1832 between the Rev Christopher Rigby Collins of Sidmouth in the county of Devon clerk, Christopher Gerard Rigby Collins of Sidmouth in the county of Devon esq, Robert Austen Langworthy of Bath in the county of Somerset esq, William Webster of 17 Bedford Place Russell Square in the county of Middlesex esq a Lieutenant in the Royal Navy, the Rev John Walker (sic) Phelps of Rennes in the Kingdom of France and William Somerville Ahmuty of Cookstown in the Kingdom of Ireland esq of the one part and William Bird Brodie of New Sarum in the county of Wilts esq of the other part: Witnesseth that for and in consideration of the sum of five shillings apiece of good and lawful money of Great Britain to each of them in hand well and truly paid by the said William Bird Brodie at or before the sealing and delivery of these presents the receipt whereof is hereby acknowledged

The said parties hath bargained and sold to William Bird Brodie that one undivided fifth part or share the whole unto five equal parts being considered as divided between them of the messuage or tenement and the ground and soil whereon the same stands and the garden with the appurtenances situate lying and being within the said city of New Sarum in a certain street or place lately called the Ditch but now the New Canal divided and bounded between the lands formerly of Robert Baynes gentleman on the west part, the lands of the Lord Bishop of Sarum on the east part, the land formerly of Lord Staunton on the south part and the said street or highway lately called the Ditch but now the New Canal on the north part. All of which were formerly in the occupation of Benjamin Charles Collins, afterward of William Bird Brodie, John Dowding and John Luxford and since of William Bird Brodie and John Dowding, and now of William Bird Brodie and Charles George Brodie and together with one like undivided fifth part or share of and in all houses shops counting houses warehouses outhouses edifices buildings stables yards gardens ways paths passages easements waters water courses liberties privileges profits commodities advantages hereditaments appurtenances to said messuage etc are hereby sold to William Bird Brodie his executors administrators and assigns from the day next before the day of the date of these presents for and during and unto the full end and term of one whole year from thence next ensuing and fully to be complete and ended. Yielding and paying therefore to the said parties their heirs and assigns the rent of one pepper corn only on the last day of the said term if same be lawfully demanded

To the uses upon the trusts and to and for the ends intents and purposes and with under and subject to the powers and declarations expressed and declared of and concerning the same by an Indenture of Release already prepared and intended to bear date the day next after the day of the date of these presents and made between Christopher Rigby Collins of the first part, Christopher Gerard Rigby Collins of the second part, Robert Austen Langworthy and Elizabeth his wife of the third part, William Webster and Mary Beata his wife of the fourth part, John Walker Phelps and Sarah his wife of the fifth part, William Somerville Ahmuty and Edith his wife of the sixth part, William Bird Brodie of the seventh part, and Charles George Brodie of the eighth part. In witness whereof said parties to these presents have set their hands and seals the day and year first above written

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Rigby v Hamilton

The Times 4 December 1832 Law Report.

Court of Common Pleas, Monday 3 December. Middlesex Sittings before Lord Chief Justice Tindal and a Special Jury. An Action of Libel brought by Edwin Budd Rigby against Francis James Hamilton.

The plaintiff Mr Edwin Budd Rigby a young gentleman not long returned from Lincoln College Oxford, residing with his father Mr Rigby the barrister at Yately Lodge near Blackwater Hants. The defendant Mr Francis James Hamilton a gentleman residing at Yately Cottage in the same neighbourhood and a widower for a short period before the transaction from which the present Action arose.

Summary: A small printed placard was posted about the village of Yately and also transmitted by post enclosed in letters to most of the young ladies resident in the neighbourhood it was dated 13 April 1831 and headed Important to Parents and Guardians and worded Whereas I, Francis James Hamilton of the parish of Yately Hants, my probation as a widower having expired, am desirous of forming a suitable matrimonial connexion with any lady whose general disposition is answerable to my own that is amiable, benevolent and assiduous in preserving foreign and domestic tranquility. Any person wishing to enter into the above named alliance will please announce the same to the principal at Yately Cottage near Bagshot Hants.

Mr Hamilton very indignant at the liberty taken with his name and his suspicion of the authorship falling on Mr Rigby, with whose family he had not been on friendly terms recently, sent a friend to demand a disavowal or apology. Mr Rigby on that occasion laid his hand on his heart and solemnly denied all knowledge directly or indirectly of the publication. Some time after Mr Hamilton became very strongly impressed with the belief that Mr Rigby together with his mother and sister was the author of the anonymous publication.

After fruitless endeavours to obtain an apology Mr Hamilton published an advertisement in the Reading Mercury dated 27 June 1831. It was headed Edwin Budd Rigby late of Lincoln College Oxford and stated that notwithstanding the positive and solemn denial of Edwin Budd Rigby, the son of Thomas Tipping Rigby of Yately and Paper Buildings Temple, that he had any knowledge directly or indirectly of the anonymous handbill, Mr Hamilton was now in possession of evidence; that the respectable families insulted by that publication were indebted for it to Mr Rigby whose character and disposition he would have them judge when they found that, after refusing to make any apology to the respectable ladies he had so insulted or to the man whose feeling he had wounded and after laying his hand on his heart and solemnly denying all knowledge, it turned out that he Mr Rigby together with two members of his family whom he would not name, had been a principal agent. This advertisement constituted the libel complained of by the plaintiff Mr Rigby for which he brought the present action.

Mr Coltman for the defendant Mr Hamilton called witnesses in support of the Pleas of Justification.

Eleanor Prescott lived three miles from Hartley Row: in May 1831 was staying in Lincoln's Inn Fields when a letter was forwarded to her containing one of the anonymous placards. Her father Mr Prescott away from home had found on his return a letter addressed to his daughter which he opened, read and sent her. Mr Rush living at Eversleigh received a similar placard addressed to his niece. Miss Giblett also on a Sunday morning. Robert Taylor pulled down one of the placards posted up at Yately and gave it to Edward Crooke who passed it to Mr Hamilton.

Sarah Milam was in the service of Mr Rigby: saw Mr Rigby and his mother going out in the chaise returning the evening of 15 April. Went into the dining room that night, saw her mistress stirring something in a silver saucepan on the fire, next morning saw spots of paste on the table. Asked that night to leave the door leading to the back part of the house open, saw Mr Rigby pass through the kitchen and the man Tyce go out with him. Next day Mr Rigby and his sister went out in the chaise towards Wokingham, Miss Rigby had on a black veil. On its return saw the chaise overturn near the house, Mr Rigby, Mrs Bruere and Mrs Rigby thrown out slightly hurt. Went to where the gig lay saw the seat box, a veil and three letters. Picked up one letter, Anne Willis the other two. Letters addressed to the young ladies Miss Groves, Miss Cayly and Miss Wagstaff. Opened the letter and saw the anonymous placard, held the other two to the light, saw something printed of similar description. Opened the one to Miss Groves, resealed it, kept the letter addressed to Miss Cayly and gave Mr Rigby the other two.

Mr Rigby came into the pantry seemed much confused, said the secret was out. He asked if she knew anything of the placards, she said it had been talked about. He broke open one letter, asked her to read it saying it was he and his mother had got that done yesterday for what Mr Hamilton had said to his father at the dinner. He asked if she had found any more, said it would be a bad job if anybody else had seen them, had she told anyone. He asked if the other servants knew about them, said they had seen the placards. He did not think the cook would say anything being so long in the family. Same day gave warning she would leave the service, Mr Rigby wished her very much to stay. Next day he said not to say anything about the placards, that she would have her new gown if she remained in service. Left 1st May 1831 and a day or two later made a communication to Mr Hamilton in the presence of her father and mother.

Cross-examined: on 22 June entered the service of Mr Mascall the defendant's father-in-law, since then has lived with Mr Hamilton's brother. Went before a magistrate, told of the paste marks on the table but not the letter she kept back, knew she was sworn to her statement. Did not apply for a character, Mr Mascall had hired her without any character, never heard of a five guinea reward offered by Mr Hamilton. Asked about the manner in which she peeped into the letters and other points.

Ann Willis lives with her father a labouring man at Derby Green: saw the chaise overturn and picked up two letters and gave them to Sarah Milam; saw Sarah Milam pick up a letter. Cross-examined: a friend of Sarah Milam, not married but has a baby. Sarah Ratcliff: a labouring girl daughter of a tailor, also saw the gig overturn and the Misses Milam and Willis pick up the letters addressed to the three young ladies. A coachman and general servant: in Mr Rigby's service the time the placards were stuck up. Was in the kitchen the Friday night when Mr Rigby passed through and told Tyce to come this way, both went up to the loft in the stable. When Tyce went out he had on a smockfrock but on his return from the stable had none, Mr Rigby seemed to have it under his arm. Cross examined: was discharged from Mr Rigby's service.

Mrs Bruere a rather well-looking lady but whose style of dress and manner were very peculiar: in April 1831 lived with her husband at Yatley. A placard was given her husband Saturday morning, she took it to Mrs Rigby who borrowed a veil for her daughter Miss Rigby to go out in the four wheeled chaise. Mrs Bruere and Mrs Rigby took a walk in the afternoon, met the chaise returning about a mile from Mr Rigby's house and got into it. Mrs Rigby insisted she take the veil, wear it up off her face and look up at the window when passing Mr Hamilton's house. Mrs Rigby said not to mention the placard as she and her son were the authors. Mr Rigby denied the assertion but later out walking said he and his mother were the authors. Later Mrs Rigby took her to a summerhouse, pointed to some fresh earth and said she was afraid Mr Hamilton would search the house and so had buried the remaining placards. Mrs Rigby took a rake and scraping away the earth turned up a small red work basket containing the placards. Mrs Bruere took them home, later given up by her husband to Mr Hamilton.

Cross-examined: left neighbourhood over a year ago having resided there upwards of a twelve month. Knew none of the neighbours, first met Mrs Rigby about Christmas time. Had been very ill during her husband's absence, Mrs Rigby behaved with great kindness, sat up five nights with her. Had always lived with her husband except when he was abroad or at College. The last week or two she had been living in Farringdon Street, for three months previously Bond Street, her husband abroad. When living at Farringdon Street her husband lived at a place called Seldom Seen; laughter meaning Fleet prison. Had been in the Fleet about a month, had been in the Bench, changed to the Fleet. Could not say if her husband had been in any other Seldom Seen before then, did not interfere with her husband's affairs nor he with hers. Could not say where they had been living before he was taken to the Bench. In Cambridgeshire, Northamptonshire, Derbyshire and thirty other counties she could not remember, had been travelling about. In how many of these counties her husband had visited was there a Seldom Seen? No answer. Married seven years, did not know what counsel meant by how many names had she passed under while living in Bond Street and Regent Street. Only been called Mrs Bruere or Mrs William, that was Mrs William Bruere, never Mrs Williams. Her husband arrested at the Blue Boar in Holborn, cannot say when not taking notice of those things. Had stayed at the Blue Boar and at every other hotel in London.

Denied saying Mr Rigby had nothing to do with the placard, would take her affidavit of it that moment. Denied saying Mr Rigby was an injured young man or that she would be a dead woman in a month if she did not come forward to give the statement she made to Mr Hamilton. Might have said something as Mr Rigby threatened she would not be alive in six months if she came forward against him. Denied being so pained at what she had been obliged to do that when signing the statement had to drink brandy and water to keep from fainting. You deny the brandy and water? I do but don't deny sherry and water. Do you deny you said it affected you so much you were obliged to have twelve leeches to your head. I do, my head is not so easily affected by sherry and water as all that; laughter in which she joined. Denied saying her husband had thrown black bottles at her because she refused to come forward against Mr Rigby. Denied telling Mr Hyde or showing the bruises caused by her husband, had no quarrels with him. Had seen Mr Hyde within last four months, might have said she and her husband had spoken but nothing about this, would not tell a lie to save his neck. Denied in Mrs Cotterell's presence using the expressions and statements mentioned by learned counsel. Mrs Bruere complained of being unwell from being detained so long in the witness box, she was allowed to retire.

William Sadler Bruere husband of the last witness and at present a prisoner in the Fleet prison: in April 1831 saw Mrs Bruere being thrown out of Mr Rigby's chaise at which he felt annoyed. Saw it from his garden and papers like the placards fall out of Mr Rigby's hat, told him the placards believed to have originated with his family. Mr Rigby laughed, said it was a good joke but denied it. Later received a letter from Mr Rigby who afterwards confessed to him, in his brother's presence and then at his father's house, of being the author of the placard and that his father would not be annoyed. Cross-examined: told Mr Rigby to apologize to the ladies or come forward and bring evidence to clear himself. Did not recall if said before or after the confession, never advised him to apologize to Mr Hamilton. Quarreled with Mr Rigby when he dared Mrs Bruere to come forward with her information. Denied sending a challenge to Mr Rigby through his coachman, if required it would be through a gentleman not a coachman. Did not send a direct challenge only that he would meet him, the coachman took it as a message without authority. Mr Hamilton called at Mrs Rigby's saying had an order from Mr Rigby to search the house. Mr Bruere said it could not be as he had received a letter from Mr Rigby the day before. Mr Hamilton replied if he said he had no order, he was a liar. Mr Bruere had been arrested twice before the present occasion, Mr Rigby had been of some service to him. Had no quarrel with Mrs Bruere coming forward, she was reluctant but he insisted.

Thomas Clayton a compositor in Mr Snare's printing office in Reading: knew nothing of the handbills, did not know any of Mr Rigby's family except by name. Assisted in printing or rather composing a placard from a manuscript like the one produced, received the manuscript from young Snare. A young man held his frame while he was working, John Snare told him afterwards it was Edwin Rigby. Produced a proof of the placard on which he had written E.R.'s proof, meaning Edwin Rigby's. It is twelve miles from Yatley to Reading and 8 o'clock at night, could not identify the young man he

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Captain Micklethwaite: called on Mr Rigby requesting he apologize or deny all knowledge of the placards. Said if he had not been concerned in it, he could not object to lay his hand on his heart and say so, he did place his hand on his heart and denied all knowledge. Prior to the placards being published, Mr Rigby looking at a portrait of Mr Hamilton observed that there would be a bit of fun.

The case for the defendant Mr Hamilton having closed, counsel for the plaintiff Mr Edwin Budd Rigby called the following witnesses Mrs Rigby, Mr Rigby and Miss Caroline Rigby; the plaintiff's mother, brother and sister, and Anne Cotterell, Mr Hyde and Mr Henry Hyde all of whom contradicted the Brueres. Mrs Rigby and her daughter denied most positively all knowledge of the placard, that any paste had been made as stated by Miss Milam, that any letters had been put into the post office at Harley Row on the day in question except two private letters put in by Miss Caroline. Mr Rigby contradicted much of Mr Bruere's statement alleged to have taken place in his presence. Mrs Cotterell affirmed Mrs Bruere had made all the statements she denied today. Mr Hyde swore Mrs Bruere had said her husband had quarreled and ill used her because she declined to make the statement he required her to make and was consequently covered with bruises.

Learned counsel on both sides having addressed the jury, the Lord Chief Justice was proceeding to sum up the evidence when the jury intimated their minds were satisfied. His Lordship observed to them although they might be disposed to disbelieve the evidence on the part of the defendant Francis James Hamilton, still they ought not to visit him with intemperate damages, because undoubtedly the information he had received was quite sufficient to warrant him in fixing his suspicions on the plaintiff Edwin Budd Rigby, although afterwards turned out he had been deceived. The jury turned round in the box for a few moments and then returned a verdict for the plaintiff Mr Edwin Budd Rigby of £50 damages. The trial lasted thirteen hours and excited considerable interest.

Houlditch v Collins

Courts of Chancery Michaelmas Term Law Report 1842.

Summary. The Bill stated that in 1840 the plaintiffs obtained judgment against one of the defendants Christopher Gerard Rigby Collins for £4931 in the Court of the Exchequer. At that time two other of the defendants were seized of certain freehold hereditaments in trust for Mr Rigby Collins. The plaintiffs were entitled to the same remedies against these hereditaments; to be considered as mortgagees and that monies due to them be raised and paid or that Mr Collins might be foreclosed.

Two of the defendants put in a Plea that in May 1840 the plaintiffs John Houlditch & James Houlditch caused the arrest of Mr Rigby Collins then in Jersey for another debt; and that while Mr Rigby Collins was confined in prison at St Helier, the plaintiffs via Thomas Le Breton the administrator of their goods, caused another writ an ordre provisoire to be issued in Jersey by Mr L.L Bisson bailiff against Mr Rigby Collins for £4931. On 9 September 1840 Mr Philip Le Gallais deputy viscount the proper officer at the prison, seized and put in prison Mr Rigby Collins to compel the payment of £4931.14s.10d London exchange, the amount given by the Exchequer of Pleas at Westminster London in favour of Messrs Houlditch against Mr Collins on the 27 July 1840. The Plea alleged Mr Collins was still confined in prison in Jersey in respect of the judgment debt.

Mr G Turner and Mr Piggott in support of the Plea: the intention of the act was to give a creditor remedy either against the person or property of his debtor but not against both, seeing the injustice of keeping a party in prison for non payment when the creditor by seizing the debtor's property took from him the very means of raising the amount. Mr Pemberton and Mr Rolt contra: the act does not apply to lands in Jersey which would not be bound by an English judgment and it does not appear the defendant has been taken in execution on it. Mr Turner: it is not alleged the defendant has any lands in Jersey on which judgment there is to operate, and if there were the judgment here is by the act to be charged on All Lands &c.

Master of the Rolls: the question is have the plaintiffs caused the person of the defendant to be taken or charged in execution upon such judgement. If they have the charge is released, if not the act does not apply. The plea plainly indicates not a taking in execution on the judgment but a proceeding to recover by a new action the amount ascertained to be due by the judgment here. The proceeding seems to be on mesne process (profits lost to the owner of land by his having been wrongfully dispossessed of his land). It is therefore not a case under the 16th clause and the withdrawal of a defendant from this jurisdiction might render it necessary for a plaintiff to avail himself of the proceedings in a foreign court. This Plea must be overruled.

A creditor obtained judgment in the Court of Exchequer and afterwards took proceedings against the debtor in Jersey and caused him to be arrested there on mesne process. It was held that the arrest did not deprive the creditor of the right to be considered as a mortgagee by virtue of the judgment and to have the money raised out of the debtor's real estate. Harrison's Analytical Digest of the Common Law Reports - Houlditch v Collins. A creditor having obtained a judgment which he duly registered re to the provisions of 1 & 2 Vict c.110 afterwards caused the debtor to be arrested under bailable process in the island of Jersey on account of the judgment debt. Held this was not such an arrest as would deprive the creditor of the securities over the debtor's property to which he was entitled under the act.

Pinnock v Rigby

The Times 28 July 1842 Law Report. The Rolls Court, Wednesday 27 July 1842.

Summary: Messrs Cooper and Hallett moved the plaintiff Edwin Budd Rigby should give security for costs, the motion opposed by Messrs Pemberton and Parker. The description of Edwin Budd Rigby given in his bill was of Yately Lodge near Southampton where upon inquiry he had only once been since the filing of the bill and that was on a Sunday and he was abroad. In opposition it was said the suits were on the validity of an appointment of £46,000 Consols made by Mrs Pinnock. The first suit was in this branch of the court, the second before Vice Chancellor Knight Bruce the object to change jurisdiction. Costs would be received out of the funds in court. The question was whether the plaintiff was to receive between £7,000 and £8,000 or upwards of £20,000 depending if the appointment should be deemed valid or invalid. There was a petition not yet heard to transfer the funds from the cause of Selby v Pinnock. Lord Langdale: The result of the motion must depend upon the order made upon the petition. If it should appear there had been a false description on the bill and evasive conduct by the plaintiff who had been misdescribed, it might be a case for requiring security. The court was satisfied with a deposit of money, there were funds quite sufficient to constitute the security, it would be frivolous to order it. The facts upon the petition have to be decided, the motion must stand over.

Rigby v Rigby

The Times Monday 1 August 1842 Law Report. The Rolls Court Saturday 30 July 1842.

The petition of Edwin Budd Rigby and Emma Rebecca his wife in the second suit praying the various stocks and monies in the name of the Accountant General in the first cause of Selby v Pinnock and in ex parte the St Katharine Dock Company be transferred to the cause of Rigby v Rigby. On Wednesday last Lord Langdale directed the motion, that Edwin Budd Rigby should give security for costs as he had not properly described himself, was to stand over until the present petition was heard.

Summary: By the marriage settlement of August 1799 between Thomas Pinnock and Rebecca Cartwright, her property under the Will of her father Charles Cartwright consisting of freeholds, leaseholds, monies in funds etc was settled in trust for her for life. After her decease to her husband, then to all or one or more of the children of the marriage. Thomas Pinnock died in 1837 leaving seven children. His widow executed a deed dated 12 February 1841 giving her irrevocable appointment of all her property under her settlement. She appointed all her freehold estates to her three sons equally. The Consols and 3½ Reduced Stock in the Court of Chancery Selby v Pinnock and all her other settlement property she appointed to her eldest daughter Emma Rigby married to Edwin Budd Rigby. Mrs Pinnock in her Will dated 15 February 1841 appointed the Consols and Reduced Stock to her daughter Emma in the same terms.

Mrs Pinnock died the 14 March last. Edwin Budd Rigby and his wife filed their bill on 18 May last against Tipping Thomas Rigby the trustee of the settlement and also against the other children of Mr and Mrs Pinnock praying for the establishment of Mrs Pinnock's appointment. The suit Rigby v Rigby was marked in the Rolls Court. The defendants the other children filed on 25 June last their cross bill to set aside the appointment and Mr Pinnock's Will. It was marked for the other division of the court before the Lord Chancellor and a motion made before Vice Chancellor Knight Bruce. The contest now was in which suit the validity of the appointment was to be determined and the settled property administered.

Messrs Pemberton and Parker for the petitioners Mr and Mrs Rigby. The validity of the appointment was contested by the other children and that her Will was not valid in the Ecclesiastical Court. The present bill was for distribution according to the mother's appointment. The parents were dead and the present suit Rigby v Rigby instituted under the settlement and appointment of the funds the subject of the creditor's suit Selby v Pinnock. There were now six children.

Messrs Cooper and Hallett for the other children. The last order in Selby v Pinnock 1838 directed payments to the six annuitants during the life of Mrs Pinnock. The bill in the Rolls Court was filed but unable to deal with the disputed matters. The bill filed in the other branch of the court alleged the appointments by the deed and the Will were parts of the same transaction and a fraud upon the power and also raised the question of being procured by undue influence. The property about £46,000 must be dealt with by a Court of Equity and also by the Ecclesiastical Court whether the instrument was testamentary under the Will Act. Tipping Thomas Rigby the trustee gave preference to Vice Chancellor Knight Bruce's court.

Lord Langdale: It was not because the parties who filed the second bill had thought it necessary to state circumstances not stated in the first bill, that the plaintiffs in the first bill were in default. Neither did it follow the court had a right to judge between two suits said to be for the same matter which was the best way of stating the question. The parties having a perfect right to judge for themselves in what way they would present their own case, he had no right to dictate the way of stating it. No difficulty would have occurred if the plaintiffs in the second cause had marked their bill in this branch of the court. It had always been said the two causes on the same subject should be brought together, then no difficulty transferring funds into both. There was sufficient security in court for the costs of Edwin Budd Rigby's suit, the motion for him to give security must be refused but without costs as a sufficient description of his residence had not been given in the bill he had filed. The present petition must stand over pending production of a transcript from the Accountant General's books