

have funds in their hands in the meantime, before those legacies which are only payable after the dissolution of the partnership.

The cost of this suit must be borne by Mrs. Attwell's estate.

1879.
Aug. 28.
Sept. 12.
Torbet vs.
Executors of
Attwell.

Judgment accordingly; costs to come out of the estate.

[Plaintiff's Attorney, MOORE.
Defendants' Attorney, BUISSINNE.]

MAY 4 1904

LAW LIBRARY

JORDAAN vs. PETERS.

*Magistrate's Jurisdiction.—Affiliation.—Act No. 20, 1856,
sec. 8.*

Though a Magistrate has jurisdiction, under Act No. 20, 1856, section 8, to decide on a question of affiliation and to award maintenance, he cannot give judgment for the payment of a greater sum than £20 in all.

The defendant was sued in the Court of the Resident Magistrate of Caledon in an affiliation case, and for maintenance, when the Magistrate gave judgment for the plaintiff for £5 for lying-in expenses, and £1 per month for the maintenance of the child until it should attain the age of twelve years. From this the defendant appealed.

1879.
Aug.
Sept. 12.
Jordaan vs.
Peters.

Leonard, for the defendant, commented on the evidence to shew that the paternity of the defendant had not been proved, and that the judgment of the Magistrate should therefore be set aside.

Buchanan, for the plaintiff, was not called upon.

The Court refused to interfere with the decision of the Magistrate on the question of fact, and dismissed the appeal.

Postea (September 12).—

DE VILLIERS, C.J., said :—I understood when the papers in this case were read, that the judgment of the Magistrate was for the plaintiff for £5 and costs, and the payment of £1 a month for twelve months. On looking subsequently

1879.
Aug.
Sept. 12.
—
Jordan vs.
Peters.

into the record I find it was £1 a month for twelve years. The counsel for the appellant did not raise the question in any way whether it was competent to the Magistrate to give such a judgment. The 8th section of Act No. 20, 1856, limits the jurisdiction of Magistrates in illiquid cases to £20. The 3rd sub-section of this 8th clause gives them power to decide upon questions of affiliation and to award maintenance, without, however, binding future rights, but there is nothing in the Act or elsewhere, giving Magistrates jurisdiction in such case for more than £20. This judgment of the Magistrate's, then, is clearly in excess of his jurisdiction. I do not think it desirable that there should remain on the record a judgment of this kind, which has been obtained in error. The judgment had better be amended, making the maintenance money £1 a month for fifteen months, instead of twelve years. This will make the total amount for which the plaintiff would get a judgment £20, and thus be within the Magistrate's jurisdiction.

[Appellant's Attorney, PAUL DE VILLIERS.]
[Respondent's Attorney, DE KORTE.]

UPINGTON vs. SAUL SOLOMON & Co.

Libel.—Inspection.

An application by the defendants in an action for libel for an order to compel inspection of certain documents in the possession of the plaintiff, on the ground that a perusal of the said documents was necessary for the purpose of preparing plea, refused.

1879.
Nov. 14.
—
Upington vs.
Saul Solomon
& Co.

An action had been instituted by the Hon. J. Upington, for £10,000 damages arising from the publication by the defendants in their newspaper, the *Cape Argus*, on the 7th and 14th of October last, of certain false scandalous and defamatory words of and concerning the plaintiff, and of and concerning him in his capacity as her Majesty's Attorney-General in this Colony. The alleged libels consisted of two editorial articles commenting on plaintiff's conduct in connection with two criminal cases which had been tried at the last Circuit Court held at Victoria West, and which had