

RECENT ENGLISH DECISIONS.

cause; as, for example, when the prosecutor must know whether the story which he is telling against the man whom he is prosecuting, is false or true . . . except in cases of that kind it never is true that mere innocence is proof of want of reasonable and probable cause. It must be innocence accompanied by such circumstances as raise the presumption that there was a want of reasonable and probable cause."

In the September number of the P. D., being 8 P. D. p. 149-178, there are one or two short cases to be noticed.

PROBATE—MISTAKE—INCONSISTENT ATTESTATION CLAUSE.

The first is *In the goods of Atkinson*, p. 165. Here it appeared that in an attestation clause of a third codicil of a will, it was stated by mistake that the first codicil was cancelled. The attestation clause in question was as follows:—"Signed by the said (testatrix), as a third codicil to her will, by which the first codicil is cancelled in the presence of us both present at the same time, who, in her presence, at her request, and in presence of each other, herewith subscribe our names as witnesses." Sir J. Hannen held that an attestation clause forms no part of a codicil, and that therefore the first codicil must be admitted to probate. He says:—"It is immaterial that the attestation clause is written by the testatrix, and whether written by her or anybody else it is only an interpretation put upon the codicil which the testatrix was then about to execute, and forms no part of the codicil."

PROBATE OF WILL ABROAD.

In the next case, *In the goods of Miller*, p. 167, the president declares it to be the practice of the court to require that codicils must be proved in the court from which probate of the will has been obtained; so that, if a will has been proved abroad, probate of the codicils, if any, must be granted by the court which granted probate of the will."

REVOCATION OF WILL—REVOCATION OF CODICIL.

In *In the goods of Bleckley*, p. 169, T. M. B. having executed a codicil at the foot of his will, cut off his signature to the will; and upon proof that he thereby intended to revoke the codicil, the court held that the codicil was also revoked.

WILL—CAPACITY.

Lastly, *Parker v. Felgate*, p. 171, is a case of importance, but again the head-note does not seem very satisfactory. The case decides that if a testatrix has given instructions for her will, and it is prepared in accordance with them, the will will be valid though at the time of execution she merely recollects that she has given instructions, and understands that she is executing the will for which she had given instructions, but does not remember and understand what the instructions were, and is not capable of understanding each clause of the will if put to her. Sir J. Hannen says:—"The law applicable to the case is this: if a person has given instructions to a solicitor to make a will, and the solicitor prepares it in accordance with those instructions, all that is necessary to make it a good will, if executed by the testator, is that he should be able to think thus far, 'I gave my solicitor instructions to prepare a will, making a certain disposition of my property; I have no doubt that he has given effect to my intention, and I accept the document which is put before me, as carrying it out.'"

A. H. F. I.