

DIGEST OF ENGLISH LAW REPORTS.

(in case there should be children, other than a son, for the time being entitled to X., estate, for an estate in tail male in possession, or remainder immediately expectant on A.'s death) on such children, in such shares as A. should appoint, and in default of appointment equally. C., the eldest son of the marriage, joined with A. in barring the entail, and resettling the estate to A. for life, then to C. for life, with remainder to C.'s issue in tail general, remainder to A.'s heirs. *Held*, on A.'s death, that that was the period for ascertaining whether C. should be excluded, and that therefore he was entitled to share in the personal estate; the fact that his being only tenant for life arose from his own act did not exclude him.—*Stanhope v. Collingwood*, Law Rep. 4 Eq. 286.

See MISTAKE; PLEADING, 1.

DEPOSITION.

By 1 Wm. IV., c. 22, sec. 4, a judge may issue commissions to examine witnesses abroad, and may give all such directions touching the time, place and manner of the examination, and all other matters and circumstances connected with the examination, as may appear reasonable and just." A judge's order under this statute provided that the deposition of every witness should be signed by him. The commission contained no such clause. *Held*, that the clause was merely directory, and a non-compliance with it did not render the deposition inadmissible.—*Hodges v. Cobb*, Law Rep. 2 Q. B. 652.

DEVISE.

1. Testator devised all his "freehold land, situate and being in, or forming the whole or part of" a certain block of buildings. Part of this block the testator owned in fee, subject to a lease; of a second part he had a term for years; of the remaining part (x) he had a term for years, and also the reversion in fee from the expiration of three years from the end of his term. *Held*, that both his leasehold and freehold interest in X. passed under the devise.—*Mathews v. Mathews*, Law Rep. 4 Eq. 278.

2. Devise in trust for A. for life, remainder in trust for B., C. and D., and the survivor, for their lives and the life of the survivor, and for the issue of them respectively for their lives for ever, as tenants in common, with a gift over on their death without issue or on the death of all their issue; and a direction that the before-stated entails to B., C. & D., and their respective issues, should be equally divided among the daughters as well as the sons of them on their issue. *Held*, that the doctrine of *cy pres* was applicable to such devise; that B., C. and

D. took equitable estates in remainder for their lives and the life of the survivor, with cross-remainders between them; and that, on the death of the survivor, all the children of B., C. and D. took equitable estates as tenants in common in tail, with cross-remainders between them in tail.—*Parfitt v. Hember*, Law Rep. 4 Eq. 443.

See LEGACY; VESTED INTEREST, 1; WILL, 5.

DISCOVERY.—See EQUITY PLEADING AND PRACTICE.

DISCRETION.—See TRUST, 4.

DIVORCE.

1. A man, having married a woman of loose character, with whom he had been co-habiting, separated from her against her will soon after the marriage, and sent her to live by herself, in a place where she would be accessible to temptation, and where she committed adultery. There was no evidence of any reasonable cause for the separation. *Held*, that this was conduct conducting to her adultery, and that a petition by the husband for dissolution of marriage should be dismissed.—*Baylis v. Baylis*, Law Rep. 1 P. & D. 395.

2. The pension of a retired naval officer, received solely in respect of past services, is liable to sequestration for alimony.—*Dent v. Dent*, Law Rep. 1 P. & D. 366.

EASEMENT.

The defendant, the owner of a mill where paper had been made from rags, introduced a new vegetable fibre, and carried on the works on the same scale for making paper from this new material. For more than twenty years before this change, the refuse from the mill had been discharged into a stream that ran past the plaintiff's house. *Held*, that the defendant's easement was to be presumed to be, not a right to discharge into the stream the washings produced by the working up of rags, but a right to discharge into it the washings produced by the manufacture of paper in the reasonable and proper course of such manufacture, using any proper materials for the purpose, but not increasing the pollution, and that the burden lay on the plaintiff to prove any such increase.—*Baxendale v. McMurray*, Law Rep. 2 Ch. 790.

See LIGHT.

ELECTION.—See MARSHALLING.

EQUITY.—See LEASE.

EQUITY PLEADING AND PRACTICE.

To a bill by the United States, praying an account of all moneys received by the defendant as agent in England of the so-called Confederate States, and for consequential relief, the defendant pleaded to the whole of the dis-