to give up the goods to the plaintiff until he should consult the attorney, who told him to use his own judgment. The plaintiff having brought trespass and trover.

Held, that C. was liable: that he was not entitled to a demand of perusal and copy of the warrants under which treated, for the action was not brought by reason of any defect in the process: that the jury were warranted in finding as they did, that he did not believe that he was discharging his duty as bailiff in refusing to give up the goods after the decision of the interpleader, which entitled him to notice of action: that the execution creditors were also liable; but that the attorney was not, for he had told C. he ought to use his own judgment.

Ferguson, Q.C., for plaintiff.

D. B. Read, Q.C., and *Osler* for defendant.

Stephens v. Stapleton.

Division Court bailiff—Notice of action—Sale of business—Evidence of bona fides.

The Consol. Stat. U. C. cap. 126, sec. 10, requiring notice of action, does not apply to the case of a Division Court bailiff acting under an execution, which is specially provided for by cap. 19, sec. 194; and a notice, therefore, to such bailiff, not having endorsed upon it the name and place of abode of the plaintiff, as required by the former, but not by the latter Act, was held sufficient.

Upon the evidence set out in the case, the jury having found that the business carried on by the execution debtor was that of his brother, and carried on by the execution debtor as his agent, a new trial was granted, with costs to abide the event.

J. K. Kerr, Q.C., for plaintiff.

Armour, Q.C., for defendant.

Re Johnson and Monteal and Ottawa Junction Railway Co.

Award—Motion to set aside—Practice.

A rule to set aside an award must be drawn up on reading the award or a copy of it.

The objections taken to the award were that having been made *ex parte* and without hearing witnesses it was void, and it was urged that it might therefore be set aside without producing it; but, *Held* otherwise.

Re Hinton v. *Meade*, 24 L. J. Ex. 140, not followed.

M. C. Cameron, Q.C., and *Beaty*, Q.C., for plaintiff.

Armour, Q.C., and *Kerr*, Q.C., contra.

DIGEST.

DIGEST OF THE ENGLISH LAW REPORTS

FOR NOVEMBER AND DECEMBER 1876, AND JANUARY 1877.

(*From the American Law Review.*)

Acceleration.—*See* Remainder.

Accommodation Bill.—*See* Bills and Notes, 3, 4.

Accumulation.—*See* Devise 2.

Act of God.

The defendant owned land upon which had been built embankments for the purpose of damming up a natural stream which ran through the land, thereby forming large pools. A storm occurred, accompanied with rain, heavier than ever known to have taken place there previously; and in consequence the stream was so swelled that it carried away the plaintiff's bridges. The jury found that there was no negligence in the construction or maintenance of the embankments, and that the storm was of such violence as to constitute the cause of the accident *vis major*. *Held*, that the defendant was not liable for the damage.—*Nichols* v. *Marsland*, 2 Ex. D. 1; s. c. L. R. 10 Ex. 255; 10 Am. Law Rev. 286.

Ademption.—*See* Settlement, 3.

Advowson.—*See* Trust, 1.

Ancient Lights.—*See* Prescription.

Annuity.

1. A testator bequeathed his residuary estate to trustees in trust to purchase thereout from government an annuity for M. for life; and he directed that M. should not be entitled to elect to receive the price or value of said annuity in lieu of it, and he declared that the annuity was given for the sole and separate benefit and disposal of M., and that if M. should at any time sell, alien, assign, transfer, incumber, or in any way dispose of or anticipate the annuity, it should thereupon cease, be void, and sink into the residue of the testator's estate. *Held*, that M. was not entitled to such sum as would purchase said annuity; but that said trustees should purchase an annuity for M. to be paid to her for life or until she should alien it.—*Hatton* v. *May*, 3 Ch. D. 148.

2. A testator gave an annuity to E. for life, and after her death to her children during their lives, and after the decease of the survivor to the testator's nephew and two nieces, equally between them. E. died without having had children. *Held*, that the gift to the nephew and nieces was not void for remoteness; and that the nephew and nieces were absolutely entitled to a principal sum which would produce said annuity.—*Evans* v. *Walker*, 3 Ch. D. 211.

3. A testatrix bequeathed stock to trustees to be laid out in an annuity for H. for life, and she directed that H. should not be entitled to have the value of his annuity in lieu thereof, and that if he should sell, mortgage, pledge, or anticipate his annuity, the same should cease and form part of the testatrix's residuary estate. *Held*, that H. was absolutely entitled to the annuity and could sell it.—*Hunt-Foulston* v. *Furber*, 3 Ch. D. 285.

See Priority, 2.