

DIGEST OF ENGLISH LAW REPORTS.

assignment declared void. *Held*, that the executrix had a right to mortgage assets to a creditor, in the absence of fraud — *Earl Vane Ridden*, L. R. 5 Ch. 663.

2 The executors of a deceased shareholder in a company paid a legacy under the will. The company subsequently was wound up and the executors placed on the list of contributors, but the estate was insufficient to pay the calls. *Held*, that the executors had committed a breach of trust in paying the legacy without providing for the liability of the testator's estate in respect of these shares, and were liable for the amount — *Taylor v. Taylor*, L. R. 10 Eq. 477.

EXECUTORY DEVISE.—*See WILL*, 7.

EXECUTORY TRUST.—*See WILL*, 2.

EXONERATION.

1. A testatrix gave one moiety of her real estate to M. for life, remainder to M.'s two sons and their issue; and the other moiety to S. for life, remainder to S.'s sons, and &c. By a codicil reciting that she had incurred debts as surety for one of M.'s sons, she directed that those debts should be "exclusively and in the first instance borne by and paid out of" the moiety of her real estate devised to M. and her sons, and that the other moiety devised to S. and her son should be exempt from the payment of said debts. *Held*, that the direction exonerated the personal estate as well as all other parts of the real estate. — *Forrest v. Prescott*, L. R. 10 Eq. 545.

EXTINGUISHMENT.

In 1825, A. mortgaged real estate to secure £27,000 for one year, with power of sale in case of default. Default was made; and by an indenture between A. and the mortgagee, and K. in 1830, reciting that "the said power (of sale) had not been and is not intended to be exercised," the mortgaged debt was assigned to K., and all remedies for recovering the same and all benefit of the mortgage, and the estate was mortgaged to secure the debt to K. for seven years, without any right in K. to foreclose or compel payment during the term, and with a power of sale in case of default. *Held*, that the power of sale in the mortgage of 1825, was extinguished by the indenture of 1830. — *Boyd v. Petrie*, L. R. 10 Eq. 482.

See POWER, 1.

FORFEITURE.

A wife, having a power of appointment (subject to a life-estate in her mother), by will appointed the property upon trust to pay an annuity of £100 to her husband during his life, with a declaration that if he should be-

come bankrupt, or should assign, charge, or incur, then the annuity should cease to be payable, as if he were dead; with a further direction that the trustees might, in their discretion, and without assigning any reason, at any time discontinue payment of the annuity during the whole or any part of his life. Before the date of the will, the husband was with the knowledge of his wife, adjudged a bankrupt in a sequestration according to Scotch law, the effect of which was to divest him of any estate which came to him before he obtained a discharge; he obtained his discharge after the death of the tenant for life. *Held*, that the Scotch bankruptcy was not a bankruptcy within the meaning of the forfeiture clause; but that the annuity was subject to the absolute discretion of the trustees. — *Trappes v. Meredith* (No. 2), L. R. 10 Eq. 604.

FRAUD.—*See COMPANY*, 2.

FRAUDS, STATUTE OF

The defendant, being chairman of a local board, asked the plaintiff whether he would lay certain pipes; the plaintiff said, "I have no objection to do the work if you or the local board will give me the order." The defendant said, "You go on and do the work and I will see you paid." The work was not authorized by the board, and they refused to pay for it. *Held*, that the defendant's contract was that he would be answerable for the expected liability of the board, and that this was a promise, within the Statute of Frauds, to be answerable for the debt of the board although the board was never indebted. — *Mountstephen v. Lakeman*, L. R. 5 Q. B. 613.

FRAUDULENT CONVEYANCE

A creditor, learning that his debtor's business was improperly conducted, pressed him for payment; the debtor not being able to get the money, verbally agreed to convey to him certain real estate in part payment, and instructions therefor were given to a solicitor; owing to the solicitor's illness the conveyance was not made for two months, and six weeks after the conveyance the debtor filed a petition in bankruptcy. *Held*, that the conveyance, being made in consequence of a demand by the creditor, was not fraudulent; also, that the rule was not altered by the Bankruptcy Act. — *Ex parte Tempest*, L. R. 6 Ch. 70.

FREIGHT.—*See CHARTER PARTY*, 2, 3.

GIFT.

S. gave the following memorandum signed by him to M.: "I hereby give and make over to M. an India bond, value £1000," &c.; the bond was not delivered, and there was no con-