

DIGEST OF ENGLISH LAW REPORTS.

and if so it would include children by a future husband. The testator evidently intended his wife to do what she liked with the property, and he had no doubt it was his intention to leave it at her absolute disposal. The tendency of the cases was not to fetter these kinds of gifts. In the cases cited there were words stronger than these, and yet they had been held not to create a trust. There was no indication here of an intention on the part of the testator that the family should take anything except through the voluntary appointment of their mother. He apprehended that where there was an absolute gift at first, the latter part must show as clear an intention to cut down the absolute gift as the first part did to give ope. He was of opinion, therefore, that the testator's widow took the fee simple of the real property, and the personality absolutely.

DIGEST.

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FOR MAY, JUNE AND JULY, 1870.

(Continued from page 251.)

ABANDONMENT—See INSURANCE, 4.

ACTION.

1. A debtor gave a fraudulent preference to the defendant, one of his creditors, by assigning goods to him, and was afterwards adjudicated a bankrupt; before the adjudication the defendant sold the goods. The assignee brought this action to recover the money received for the goods. *Held*, reversing the judgment of Q. B., that the assignee of a bankrupt might avoid a fraudulent preference, because it contravenes the spirit of the bankruptcy laws; and that, the goods having been converted into money, he might maintain an action for money had and received, to recover the proceeds. (Exch. Ch.)—*Marks v. Feldman*, L. R. 5 Q. B. 275.

2. W.'s stock was to be sold at auction; he was indebted to the defendant, and it was agreed between them that the defendant should buy at the sale, and place the amount against W.'s debt. The defendant bought at the sale and received the goods; the plaintiff, who was the auctioneer, was ignorant of the agreement until he had paid over to W. about half the proceeds of the sale; he then had notice of it from the defendant. Afterwards the plaintiff paid to W. the balance due, deducting his commission. *Held*, that as the plaintiff's charges had been satisfied by W., and as W. was not entitled to receive any thing, the plaintiff could not maintain an action for the price of

the goods against the defendant.—*Grice v. Kenrick*, L. R. 5 Q. B. 340.

See PRINCIPAL AND AGENT, 2; WARRANTY.

ADMINISTRATOR PENDENTE LITE.

Testator left a will and two codicils. There was no opposition to the will and first codicil, but the defendant opposed the second codicil; this codicil did not affect the appointment of executors. The court refused to appoint an administrator *pendente lite*, as there was an executor capable of discharging his functions.—*Mortimer v. Paull*, L. R. 2 P. & D. 85.

ADMIRALTY.—See COLLISION; TOWAGE.

ADMISSIONS.

At the trial of an action by the plaintiff and wife for injuries to the wife owing to the defendants' negligence, evidence was given by the defendants tending to show that the plaintiff offered a man one-third of the compensation received, if he would give false evidence in his behalf, and that C., a clerk of the plaintiff's attorney, who was present, said that if he did not do it, he would find others who would. Two other witnesses testified that C. made similar proposals to them to give false evidence, but that these proposals were not made in the plaintiff's presence. *Held*, that the evidence was admissible as admissions by the plaintiff that his case was not a good one, and that there was evidence that C. acted by the plaintiff's authority.—*Moriarty v. London, Chatham and Dover Railway Co.*, L. R. 5 Q. B. 314.

ADULTERY.—See EVIDENCE, 2, 4.

AGENCY.—See PRINCIPAL AND AGENT.

AMBIGUITY.

Devise "to my nephew Joseph Grant." It appeared that the testator's own brother had a son Joseph Grant; and that the testator's brother-in-law had a son Joseph Grant, whom the testator was in the habit of calling his nephew. *Held*, that the evidence exposed a latent ambiguity, and that parol evidence was admissible to show which person was intended.—*Grant v. Grant*, L. R. 5 C. P. 880.

See EVIDENCE, 1; WILL.

ANCIENT LIGHT.

The owner of land subject to an easement of light has no right to deprive the dominant estate of any of the light coming to it, because the owner of the dominant estate has by any means obtained other light besides that which he had by his easement.—*Dyers' Company v. King*, L. R. 9 Eq. 438.

APPOINTMENT.

1. A marriage settlement, after declaring certain trusts, directed that the trustees should