

**PLEADING—Continued.**

tiff." *Held*, that the allegations were too vague, general and uncertain to shew a valid and subsisting debt, not barred by the Statute of Limitations, at the time of the commencement of the suit, and that the bill was therefore demurrable. In a suit to set aside a conveyance as fraudulent under the Stat. 13 Eliz., c. 5, it is not necessary for the plaintiff to allege that he has obtained, or is in course of obtaining, a judgment upon his debt. *TRITES v. HUMPHREYS* ..... 1

— Demurrer and answer to whole bill — Amendment — Costs — Act 53 Vict., c. 4, s. 47—Setting demurrer down for argument — Waiver of objection to demurrer — Act 53 Vict., c. 4, s. 41—Demurrer *ore tenus* ..... 136  
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**POWER OF ATTORNEY — Authority to Receive Surplus Proceeds of Mortgage Sale—Death of Grantor before Sale—Revocation—Equitable Assignment.]—**

Pending a suit for the foreclosure of a mortgage and sale of the mortgaged premises the mortgagor executed and delivered a writing in favor of a creditor authorizing him to collect, recover and receive, and apply on account of his debt, any surplus from the sale, and declaring that the power might be exercised in the name of the grantor's heirs, executors and administrators, and should not be revoked by his death. The sale resulted in a surplus. Before the sale the mortgagor died. *Held*, that the writing was not an equitable assignment, but a power of attorney revocable by the grantor's death. *Ex parte WELCH; CHAPMAN v. GILFILLAN* ..... 129

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**PROBATE COURT — Jurisdiction — Grant of Letters of Administration.]—**

The Probate Court has jurisdiction to grant letters of administration where an intestate died indebted possessed of real, but of no personal estate. *TRITES v. HUMPHREYS* ..... 1

2. — Will — Probate of, devising Real Estate—[Conclusiveness of, in Court of Equity.] Probate of a will devising real estate is not conclusive evidence of the validity of the will in this Court. *TURNER v. TURNER* ..... 535

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**RAILWAY—Lease of Line—Passenger**

Train Service — Contract with Government — Breach by Lessee — Waiver by Lessor — Damages — Mandatory Injunction—[Suit by Lessor.] By an agreement the plaintiffs were to lease their line of railway to the defendants upon the condition, *inter alia*, that the defendants would run a passenger train each way each day between stations A. and B. The lease was not executed, but the defendants went into possession of and operated the line. The plaintiffs alleged in their bill that at the time of the agreement, as was known to the defendants, they were under contract with the government of New Brunswick to run a passenger train each way each day between A. and B., but the contract was not set out in full. In 1897 a lease was executed by the plaintiffs and defendants by which it was provided that the defendants would run a passenger train one way each day between A. and B., "and if and whenever it may be necessary to do so in order to exonerate the [plaintiffs] from its liability to the government of New Brunswick then the [defendants] will run at