

## DIGEST OF ENGLISH LAW REPORTS.

mean time, trustees might pay any part of the income towards the maintenance and education of such children respectively. Proviso (void for remoteness), for the accruer of shares of children dying before twenty-five to survivors; and then it was declared that, in case of death of child before such share accrued, it should again accrue in like manner, but provided that in case such child should have left issue, such issue should take such share as his parent would have had "if living," such share "to be paid to" such issue at such age as before directed as to payment of parent's original shares. *Held*, that the word "vested" must be construed as meaning "indefeasible;" and that the remainders to children vested in such of said children as were alive at the death of testatrix or born afterwards.—*In re Edmondson's Estate*, Law Rep. 5 Eq. 389.

5. Devise to testator's wife for life, then to his daughter; upon her decease, "equally between my surviving brothers and sisters, and those of my wife." The testator's daughter survived him, but died before his wife. Some of the brothers and sisters died before the daughter, others after her, but before the wife. *Held*, that on the death of the wife there was an intestacy. The word "surviving" meant surviving the survivor of the tenants for life.—*Howard v. Collins*, Law Rep. 5 Eq. 349.

6. A testator gave £3,000 to his executors in trust for M., for life, and after her death "in trust for the benefit of her children, to do that which they, my executors, may think most to their advantage." The executors died in the lifetime of M. *Held*, that the children of M. who survived her were entitled to the fund as tenants in common.—*In re Phene's Trusts*, Law Rep. 5 Eq. 346.

7. A testatrix devised the T. estate to J. for life, with remainders to the sons and daughters of J. successively in tail. Proviso, that if any tenant for life or in tail in possession should neglect to reside on the T. estate for six months, said estate should go to the person next entitled in remainder, as if the person so neglecting were then dead without leaving issue; she then bequeathed her residuary personal estate in trust for the children of the person who should at her death become tenant for life of the T. estate ("other than and besides an eldest or only son for the time being entitled in tail in remainder expectant on the decease of his parent" to the T. estate) who should attain twenty-one or marry; and if there be but one child beside such eldest or only son for the time being entitled as aforesaid,

then in trust for that one child, with a gift over if there should be no such children, or if they should all die before any of them should attain a vested interest. J. survived the testatrix, neglected to reside on the T. estate for six months, and died leaving a posthumous son, D., who was his only child. *Held*, that D. was entitled to the residuary personal estate, as by reason of J.'s forfeiture before his birth, he never had been entitled in tail in remainder to the T. estate; and that being an only child he took a vested interest at his birth.—*Johnson v. Foulds*, Law Rep. 5 Eq. 268.

8. A testator gave his residuary real and personal estate in trust for his "five sons" as tenants in common, and by a codicil revoked and made void the said trust so far as the same related to R., one of the said sons, or his right therein, and in lieu thereof gave £15,000 in trust for R., his wife and children; and if R. should have no children, said legacy was to sink into the residue, but so that R. or his representatives should take no share or interest therein. *Held*, that the testator died intestate as to the trusts of one-fifth share of the residue, and that the £15,000 was not payable out of such share, but was payable before the residue was ascertained.—*Sykes v. Sykes*, Law Rep. 3 Ch. 301.

See ADEPTION; ADMINISTRATION; ADVANCEMENT; CANADA; CONTINGENT REMAINDER; EXONERATION; ILLEGITIMATE CHILDREN; LEGACY; MARSHALLING OF ASSETS; POWER; SATISFACTION; TRUST; UNDUE INFLUENCE; VESTED INTEREST. WITNESS.

## WITNESS.

Bequest of £200 to B. church, to be disposed of as I. pleases. I.'s wife was one of the witnesses. *Held*, that as I. was a mere trustee, the attestation of his wife did not invalidate the bequest, under the Wills Act.—*Cresswell*, sec. 15, v. *Cresswell*, Law Rep. 6 Eq. 69.

## WORDS.

"Cause of action."—See CAUSE OF ACTION.

"Accident."—See CHARTER PARTY, 2.

"Permanent use."—See COMPANY, 4.

"Lawfully begotten."—See CONFLICT OF LAWS, 1.

"House."—See CURTILAGE.

"Out of my estate."—See EXONERATION.

"Office," "Place."—See GAMING.

"Next of kin."—See ILLEGITIMATE CHILDREN.

"Increase."—See MORTGAGE, 1.

"All the rest of my estate."—See WILL, 2.

"Received," read "Vested."—See WILL, 3.

"Vested," read "Indefeasible."—See WILL, 4.

"Surviving."—See WILL, 5.