

DIGEST OF ENGLISH LAW REPORTS.

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FOR MAY, JUNE AND JULY, 1868.

(Continued from page 212.)

ACCOUNT.

Plaintiff agreed to act as defendant's manager, receiving $7\frac{1}{2}$ per cent. per annum of the profits of the business, to be made up to £500 in any year in which the said share of profits should be less than that sum. The works were valued at the same time. Six years later the defendant sold them at a gain of £47,916. In taking the account, under the above agreement, *held*, that the defendant was not entitled to charge interest on his capital, nor interest on old debts, nor the £500 guaranteed to the plaintiff in the profit and loss account. That he might charge them the depreciation, from the waste of machinery and running out of his lease, calculated on the valuation of the works. That the plaintiff could not charge $7\frac{1}{2}$ per cent. on the gain at which the works were sold as profits of that year.—*Rishton v. Grissell*, Law Rep. 5 Eq. 326.

See EQUITY PLEADING AND PRACTICE, 1; LUNACY; PATENT, 1.

ADEMPTION.

A testator bequeathed the income of certain shares specifically, and bequeathed the shares to his residuary legatee. After the date of his will, he was found a lunatic; and, by an order in lunacy, the shares were directed to be sold, and the proceeds were invested in consols. There was no order as to the ownership of the proceeds. *Held*, that the sale was a conversion, and adeemed the legacy of income which fell into the residue.—*Jones v. Green*, Law Rep. 5 Eq. 555.

ADMINISTRATION.

1. A testator died domiciled in New South Wales, and the court there granted probate of his will to A. as executrix, according to the tenor. A. was not so by the law of England. *Held*, that the grant of the court of the domicile ought to be followed. Administration with the will annexed was granted to A., not as executrix, but, under St. 20 & 21 Vict. c. 77, § 73, to her as the person entitled to administer under the grant of the court of the country of domicile.—*In the Goods of Earl*, Law Rep. 1 P. & D. 450.

2. A. was appointed executor, and "in case of his absence on foreign duty," B. was made executrix. A. was in England at the death of testator, but was absent on foreign service in

the royal navy when the probate was applied for, and was likely to be absent for some years. Probate was granted to B.—*In the Goods of Langford*, Law Rep. 1 P. & D. 458.

See BANKER; ESTOPPEL; EXONERATION.

ADMIRALTY.

The plaintiff, a British subject, shipped as mate on board a Portuguese vessel, and signed an agreement to be bound by the Commercial Code of Portugal, which requires that all disputes arising between masters and seamen shall be submitted to the Portuguese Consul, in the country where the vessel may be. Without having done this, plaintiff arrested the vessel, and began a suit against the owner in the Admiralty Court. In accordance with the 10th of the Admiralty Court Rules, 1859, notice of the suit was sent to the Portuguese Consul in London, who thereupon protested against the same. On motion of the defendant, the court decreed that the vessel should be released, and condemned the plaintiff in costs and damages. The above rule was not abrogated by 24 Vict. c. 10, § 10, giving jurisdiction to the court over any claim by a seaman of any ship for wages and disbursements.—*The Nina*, Law Rep. 2 Adm. & Ecc. 44.

Affirmed on appeal, except as to costs and damages, which were not allowed, as the merits had not been tried. The Admiralty Court has jurisdiction, however, of such cases, and will determine whether, having regard to the reasons of the Consul and the answers of the plaintiff, it is fit for the suit to proceed.—*La Blanche v. Rangel*, *The Nina*, Law Rep. 2 P. C. 38.

See COLLISION; SALVAGE.

ADVANCEMENT.

A widow, after making a will in favor of her two daughters, transferred East India stock, which had stood in her own name, into the joint names of herself and the unmarried daughter, and died. While she lived, she always received the dividends, and applied them to her own use. *Held*, that the stock belonged to the unmarried daughter absolutely.—*Sayre v. Hughes*, Law Rep. 5 Eq. 376.

AGENT—See PRINCIPAL AND AGENT.

AGREEMENT—See CONTRACT.

ALLOTMENT—See COMPANY.

AMALGAMATION—See ULTRA VIRES, 2.

AMENDMENT—See AWARD.

APPORTIONMENT—See PARTNERSHIP.

APPROPRIATION OF PAYMENTS.

New trustees proved against the estate of a defaulting trustee for the aggregate amount of the principal trust fund and arrears of interest,