

DIGEST OF ENGLISH LAW REPORTS.

ing said period there had been acts sufficient to determine said tenancy, was immaterial, as no new tenancy had been created.—*Day v. Day*, L. R. 3 P. C. 751.

See ADVERSE POSSESSION; DEVISE, 6; EASEMENT; LANDLORD AND TENANT.

LUGGAGE.—See SALVAGE, 2.

MAINTENANCE.—See SETTLEMENT, 2.

MARRIAGE SETTLEMENT.—See SETTLEMENT.

MARRIED WOMAN.—See EQUITY OF REDEMPTION; HUSBAND AND WIFE; INFANT.

MARSHALLING ASSETS.—See SECURITY, 2.

MISJOINDER.—See COMMON; EQUITY PLEADING AND PRACTICE.

MORTGAGE.

1. The court ordered specific performance of an agreement to execute a mortgage containing an absolute power of sale.—*Ashton v. Corrigan* L. R. 13 Eq. 76.

2. If a mortgagee enters at a time when he is entitled to an order to foreclose, and receives the rents and profits, he opens the foreclosure by such receipt.—*Prees v. Coke*, L. R. 6 Ch. 645.

3. The plaintiff received deeds by way of equitable mortgage, and subsequently the mortgager executed a legal mortgage. The solicitor of the legal mortgagee omitted examining a parcel given him purporting to contain all the title-deeds, but from which the plaintiff's said deeds were wanting. *Held*, that there was not such a case of wrongful negligence as to postpone in equity the legal to the equitable mortgage.—*Ratcliffe v. Barnard*, L. R. 6 Ch. 652.

4. A solicitor induced a client to advance money upon mortgage, and subsequently advised a second client to do the same, without informing him of the first mortgage. The second mortgage was registered first. *Held*, that the second mortgagee must be taken to have had notice of the first mortgage through his solicitor, and had not gained priority.—*Rolland v. Hart*, L. R. 6 Ch. 678.

See EQUITY OF REDEMPTION; SECURITY, 2.

MORTMAIN.

A testator bequeathed money towards expenses of building a church at Z., but if not begun in testator's lifetime, or within two years of his death, the legacy not to be payable. *Held*, that to make such a gift valid, the site on which the building is to be erected must be referred to, and the application of the money to the purchase of land must be expressly excluded, and said legacy was held void.—*Pratt v. Harvey*, L. R. 12 Eq. 544.

See CHARITABLE INSTITUTION.

MULTIFARIOUSNESS.—See EQUITY PLEADING AND PRACTICE.

NATURALIZATION.—See DOMICILE, 1.

NEGLECTANCE.

1. The defendants owned a railway bridge over a highway, supported by an iron girder resting upon brick piers, from which a brick fell on the plaintiff, shortly after the passage of a train. The bridge had been used three years at the time of the accident. *Held*, that the defendants were bound to use due care in providing for the safety of the public, and that the question of negligence was rightly left with the jury.—*Kearney v. London and Brighton Railway Co.*, L. R. 6 Q. B. (Ex. Ch.) 759; s. c. L. R. 5 Q. B. 511; 5 Am. Law Rev. 298.

2. Declaration that the defendant was possessed of yew-trees, the clippings of which he knew to be poisonous, whereby it became the duty of the defendant to prevent the clippings being placed on others' land, yet the defendant took so little care of the clippings that they were placed on land not the defendant's, where the plaintiff's horses lawfully being, eat of the same and were poisoned. *Held*, on demurrer, that the facts alleged did not cast the alleged duty on the defendant.—*Wilson v. Newberry*, L. R. 7 Q. B. 31.

See COLLISION; MORTGAGE, 3.

NONJOINDER.—See COMMON, 2.

NOTICE.—See MORTGAGE, 4.

PARTIES.—See BEQUEST, 1; COMMON; EQUITY, 1; EQUITY PLEADING AND PRACTICE.

PARTNERSHIP.

By articles of partnership, profits were to be divided annually. Subsequently the partners resolved to make up the accounts half-yearly in March and September, but they held meetings very irregularly, in which they disposed of profits by resolution, until which resolution no profits were carried to the credit of either partner. A partner directed in his will that from the day of his decease the annual income of his personal estate should belong to B., and that for this purpose the net profits of the partnership should be deemed annual income. The testator died in August, 1869. At a meeting of the testator's executor and the surviving partner, it was resolved that the profits of the year ending March, 1869, be divided, and they were carried to the credit of the testator's account under date of September, 1869, and in December they were paid to his executor. In March, 1870, it was resolved to divide the profits of the half-year ending September, 1869, and the same were paid to the executor. *Held*, that the profits of the year ending March, 1869, were capital, and formed part of the testator's estate; but that the profits of the half-year,