3. A railway, consisting of several lines, crossed a public foot-path near a station; but the crossing was not otherwise dangerous There were sufficient swing-gates, as required by statute. The railway company, as an extra precaution, usually, but not invariably, fastened the gates when a train was approaching. S. found the gate unfastened, and a train standing in front of it. He waited till the train moved off, and then, without looking along the line, commenced crossing, and was killed by a passing train. Had he looked along the line, he would have seen the train in time to stop. In an action by his administrator, under Lord Campbell's Act, a nonsuit was ordered. *Held*, that S. had contributed by his negligence to the accident, and that the nonsuit was right. By Willes, J., that the mere failure to perform a self-imposed duty is not actionable negligence; that the omission to fasten the gate was not an invitation to come on the line; and that therefore the company would not have been liable, even without negligence on S.'s part.—*Skelton* v. *London and N. W. Railway Co.*, Law Rep. 2 C. P. 631.

Registration.—*See* Pleading, 1.

Revocation of Will.

A will which had been in the testator's custody could not be found among his papers after his death; he had recognized its existence up to three weeks of his death, and no change of intention was shown during those weeks; the only person interested in an intestacy had had access to and had searched the testator's papers before any other person, and did not appear in court. The court refused to presume that the will had been revoked, and granted probate of the draft.—*Finch* v. *Finch*, Law Rep. 1 P. & D. 371.

Sale.

1. The plaintiff sold the defendants 128 bales of cotton, marked $\frac{\text{D. C.}}{\text{c.}}$ at 25*d.* per lb., "expected to arrive per Cheviot, the cotton guaranteed equal to sample. Should the quality prove inferior to the guarantee, a fair allowance to be made." The sample was of "Long-staple Salem" cotton. The 128 bales, marked $\frac{\text{D. C.}}{\text{c.}}$ which arrived by the Cheviot, contained "Western Madras" cotton. Western Madras cotton is inferior to Long-staple Salem, and requires different machinery for its manufacture. *Held*, that the defendants were not bound to receive the cotton, the allowance clause referring to inferiority of quality only, not to difference of kind.—(Exch. Ch.) *Azemar* v. *Casella*, Law Rep. 2 C. P. 431.

2. A boiler set in brickwork, and capable, if taken to pieces, of being removed without injury to the premises, had been seized and sold under a distress, bought by the defendant, and sold by him to the plaintiffs at an advanced price, with notice of the circumstances under which he had bought it, the plaintiffs to remove it at their own expense. The mortgagees of the premises having prevented the plaintiffs from carrying the boiler away, the plaintiffs sued the defendant, relying on an alleged implied warranty that he had a good title, and that the plaintiffs should be allowed to remove the boiler. The jury found for the plaintiffs. *Held* (by Bovill, C. J., and Montague Smith, J.; Willes, J., dissenting), that there was no evidence to justify the jury in finding a warranty as alleged. [The judge at *nisi prius* assumed the distress to have been legal, but its legality seems not to have been considered *in banc.*]—*Bagueley* v. *Hawley*, Law Rep. 2 C. P. 625.

See Stoppage in Transitu.

Scire Facias.—*See* Company, 2, 3.

Seduction.—*See* Master and Servant.

Sequestration.—*See* Divorce, 2.

Servant.—*See* Master and Servant.

Set-off.—*See* Administration, 4; Assignment, 1; Bankruptcy, 2.

Settlement.—*See* Deed.

Sheriff.

1. An action cannot be maintained against a sheriff for negligence in not levying under a *fi. fa.* without showing actual pecuniary damages; and though *prima facie* the measure of damage is the value of the goods which might have been levied on, yet it is for the jury to say, looking at the probabilities of the case, whether or not, if the execution had been levied, the plaintiff would have derived any benefit from it, by reason of the other creditors being in a position to make the debtor a bankrupt.—*Hobson* v. *Thelluson*, Law Rep. 2 Q. B. 642.

2. A., having been arrested by a sheriff's officer under a *capias* to hold to bail against another person, protested that he was not the right person; but, to obtain his release, he paid the sum indorsed, and the officer released him under the 43 Geo. III. c. 46, s. 2. The money having been paid into court by the sheriff, a summons was served on A. to show cause why the money should not be paid to the person at whose suit he was arrested. A. did not appear, and the money was paid to such person. *Held*, that A. could recover the amount so paid from the sheriff, together with damages for the arrest.—*De Mesnil* v. *Dakin*, Law Rep. 3 Q. B. 18.