

into execution, without suggesting the existence of any difficulty in the way of their winding up the affairs of the estate—the Court refused them their costs of the suit.

Cummings v. McFarlane, 151.

2. Where a trustee set up an improper claim to the property, the subject of the trust, and a bill was filed to compel him to deliver up possession and account—the Court charged him with the costs of suit up to the hearing, reserving the consideration of interest and subsequent costs

Fisher v. Wilson, 260.

3. When a trustee is required by his *cestui que trust* to convey to the latter the trust lands, in a case in which such a conveyance would be proper, it is the duty of the *cestui que trust* to solve all reasonable doubts suggested by the trustee as to the course he is desired to pursue; and the *cestui que trust* must also pay all costs, charges and expenses properly incurred in relation to the trust, otherwise a decree for the conveyance will only be made on payment of the costs of the suit to the trustee.

Rowell v. Hayden, 557.

UNDUE INFLUENCE.

Where a party being in gaol on a charge of felony, was liberated upon the present defendant becoming bail for his appearance, and having in the interval between his liberation and trial executed a deed of his property to the defendant for an inadequate consideration, afterwards filed a bill to set this conveyance aside on account of fraud, alleging that he had executed it under the impression, and upon the assurance of the defendant, that the deed was merely a recognizance for his due appear-

ance to take his trial: this allegation being disproved, the Court dismissed the bill but without costs; and gave the plaintiff leave to file another, if he should be so advised, to set aside the conveyance on the ground of inadequacy of consideration and undue influence. Vallier v. Lee, 606.

VALUABLE CONSIDERATION.

A mortgage to creditors, to secure their debts, is a sufficient valuable consideration to give a prior registered conveyance precedence over a conveyance previously executed, but registered subsequently.

Fraser v. Sutherland, 442.

VOLUNTARY CONVEYANCE.

Where there are two voluntary settlements, the Court will, at the suit of those interested under the first, set aside the subsequently executed settlement; and it is no objection to relief in such a case that courts of law would give effect to the first against the second.

Houlding v. Poole, 685.

See also "Crown Lands."

WASTE.

See "Injunction," 12.

WITNESS.

Where a person who had given evidence in an action at law between substantially the same persons as were the parties to this suit was afterwards committed to the Provincial Penitentiary, and refused to be examined in this cause—the Court ordered the witness's evidence given at Nisi Prius to be read from the Judge's notes who had tried the action at law.

Switzer v. Boulton, 693.