

RECENT ENGLISH DECISIONS.

Company upon trust with the proceeds when a proper site could be obtained to build almshouses for the use of poor liverymen of the company, then of poor freemen of the company, and, lastly, of any poor man of the trade of a tinplate worker; and he declared that he made the bequest in the hope that some other person, actuated by the same charitable feelings, would thereafter sufficiently endow the almshouses; and he bequeathed the residue of his estate to various persons.

After the death of the tenant for life, who died in 1882, the company unsuccessfully endeavoured to obtain a site for the almshouses, and it appeared that there was no reasonable prospect of a site being obtained, and even if it could be, the company had no income available for the endowment and maintenance of the almshouses. Under these circumstances it was held by Bacon, V.-C., that as the object of the gift had failed, the fund fell into the residue as a lapsed legacy, and was not applicable *cy-pres*.

EASEMENT—ANCIENT LIGHTS—ALTERATION OF—DOMINANT TENEMENT—INJUNCTION OR DAMAGES.

The case of *Greenwood v. Hornsey*, 33 Chy. D. 471, was a suit to restrain the interference with the plaintiff's ancient lights. On a motion for an interim injunction the defendant was suffered to proceed with the building objected to, on his giving an undertaking to pull it down if so ordered. At the trial it appeared that the plaintiff's buildings were erected in 1872, upon the site of old buildings which had been pulled down in 1871. In the new buildings the windows were so arranged as to preserve the light which had been enjoyed in respect of the old buildings. The new buildings were somewhat higher than the old, and had an additional story. The front was advanced two feet nearer defendants' land. The defendants relied on the alterations in the plaintiff's building as an abandonment of the easement, but this contention failed, Bacon, V.-C., holding that an alteration of a building entitled to the access of light is not an abandonment of the right, unless the intention to abandon is manifest. The defendants further claimed that even if the right existed damages should be awarded under Lord Cairns' Act (see R. S. O. c. 40, s. 40) in lieu of an injunction, but in this also they failed, the learned Vice-Chancellor

following *Scott v. Pope*, 31 Chy. D. 554, noted *ante* p. 201, holding that the way in which the case had been dealt with in the motion for the interim injunction precluded him from entering on the question.

MARRIED WOMAN—INFANT—WARD OF COURT—SETTLEMENT—(R. S. O. c. 40, s. 87).

In *Buckmaster v. Buckmaster*, 33 Chy. D. 482, an attempt was made to invalidate a settlement made by a married woman whilst an infant and a ward of court. The settlement was made and sanctioned by the court under the following circumstances: Upon the death of her father in 1848, the settlor became entitled under his will to a reversionary interest in his estate. In 1856 a suit was instituted for the execution of the trusts of the will. In 1862, the settlor being then eighteen, and a ward of court, married without the sanction of the court or the knowledge of her guardian. By an order made in the suit upon motion an inquiry was directed whether there had been a valid marriage, and if so, what the lady's fortune was, and what would be a proper settlement of it. And in pursuance of a report made under this order a settlement was executed in 1863 by the settlor and her husband, which was duly approved by a judge. There were four children of the marriage. In 1882 the marriage was dissolved by the Divorce Court, on the ground of the husband's adultery. In 1881 the tenant for life died, and the present petition was presented by the settlor for payment out of the fund which was in court to her, on the ground that the settlement not having been sanctioned by the court in manner required by the Infants' Settlement Act, 18 & 19 Vict. c. 43, and she being then an infant and a married woman, it was not binding on her. But Bacon, V.-C., was of opinion that the settlement was valid, as having been sanctioned under the inherent jurisdiction of the court over the property of its wards, or under the Infants' Settlement Act, and that there being an action pending it was not necessary that the order sanctioning the settlement should be made upon a petition intitled under the Act. He also held that even if invalid in its inception it had been adopted and confirmed by the settlor by various acts done by her during her coverture and after its termination.