

ENGLISH LAW REPORTS.

him due notice to quit April 10, 1877. Before then B. went into bankruptcy, and his trustee took possession, and surrendered it to plaintiff March 29, 1877. It turned out that the flock had deteriorated, and that the field surrendered would have supported a certain number of sheep. The judge left it to the jury to say whether the new arrangement between B. and the plaintiff made any material change in the capacity of B. to keep the sheep in good order, and to return them without deterioration; and also the jury found that it did not. *Held*, that the negotiations between B. and plaintiff had not created a new tenancy, but (BRETT, L. J., diss.) that the modification in the terms of the lease, by the surrender of the farm and the reduction of the rent, ought to have been made known to the sureties; and that it was for them, and not for a jury to say whether that modification had materially affected their liability, by lessening the ability of B. to keep the flock intact, and that they were discharged from liability.—*Home v. Brunskill*, 3 Q. B. D. 495.

TRADE-MARK.

The plaintiff, M., published a work entitled "Hemy's Royal Modern Tutor for the Piano-forte," not copyrighted. It had a great circulation. The defendant, W., employed Hemy to prepare an edition of an old work, formerly in repute, called "Jousse's Royal Standard Piano-forte Tutor," and it was issued under the title, "Hemy's New and Revised Edition of Jousse's Royal Standard Piano-forte Tutor." The word "Hemy's" was in much larger type, and more conspicuous on the cover and title-page than any of the other words. *Held*, that an injunction should be granted to restrain the use of the title-page and cover, and of any title-page and cover calculated to lead the public to believe they were purchasing plaintiff's publication.—*Metzler v. Wood*, 8 Ch. D. 606.

TRUST.

1. A testator gave his residue to trustees to sell out and invest in parliamentary funds and real securities. It was, however, provided that the trustees for the time being might "sell out, transfer, or otherwise vary or alter, all or any of the said trust moneys, funds and securities, and invest the same" in any other funds or securities whatever. The trustees put the property into £3 per cent. annuities; but their successors afterwards sold these out, and invested in Egyptian bonds and Russian

railway bonds, transferable by delivery; and each trustee took one-half of them to keep. One of them absconded with the portion in his hands, and the bonds greatly sunk in value. *Held*, that the trustees were authorized by the will to change the investment as they did; but that the remaining one was responsible for the portion of the property made off with by the other.—*Lewis v. Nobbs*, 8 Ch. D. 591.

2. A testator left his residue in trust for J. and others, his children, the provisions to vest in them at his death, and be paid six months thereafter. Notwithstanding this period for payment, "I provide and declare that it shall be lawful to, and in the power and option of, my trustees, if they see cause and deem it fit, to postpone as long as they shall think it expedient to do so the payment . . . as aforesaid in the case of all or any of my children, . . . and to apply the interest or annual produce of the same during the . . . postponement to or for behoof of such children . . . or by deed under their hands to retain said provisions, or any of them, vested in their own persons, or to vest the same in the persons of other trustees (whom they are hereby authorized to appoint, with all . . . the powers . . . belonging to themselves, . . . so that my children, . . . or any of them . . . may draw . . . only the . . . annual proceeds of their respective provision during their lives, or for such time as my trustees may fix, and that the capital may be settled on or for behoof of such children and their issue, on such conditions and under such restrictions and limitations and for such uses as my trustees in their discretion may deem most expedient, of which expediency, and the time and manner of exercising the powers and option hereby given, they shall be the sole and final judges.' J. received the annual income on his share from the trustees from 1871 to 1876, and also a part of his capital. The respondents then got judgment against J., and proposed to arrest the balance of J.'s capital in the trustees' hands, and apply it in payment of their debt. After the action was brought, but before the judgment, the trustees executed a deed to themselves, to pay the interest to J. for life and the fee to his children, and resolving to hold the balance as an alimentary fund for J. and his family. *Held*, reversing the opinion of the Scotch court, that the trustees' discretion was complete) both as to principal and income, and the creditors had no claim on