

## DIGEST OF ENGLISH REPORTS.

in the prospectus of the company, and was expressly provided for by its articles; but put the directors on an undertaking not to take advantage—in proceedings at law, to recover the amount due on A's. shares—of his resignation, which he alleged to have been conditional on his being relieved from all liability on shares.—*Mair v. Himalaya Tea Co.*, Law Rep. 1 Eq. 411.

See BILLS AND NOTES, 1, 2, 3; FRAUDS, STATUTE OF, 4; INSURANCE, 5, 6; MASTER AND SERVANT, PARTNERSHIP, 1.

PROBATE—See ADMINISTRATION; EXECUTOR, 2; LEGATEE; PRODUCTION OF DOCUMENTS, 1; WILL. PRODUCTION OF DOCUMENTS.

1. A testator disposed of his residue, according to the trusts of a deed in which he had no concern or interest. The persons interested in and having the custody of the deed having refused to produce it, or allow a copy of any part to be made, the court directed probate of the will to issue, without the incorporation of the deed or any part thereof.—*Goods of Sibthorp*, Law Rep. 1 P. & D. 106.

2. A *cestui que trust* of an equity of redemption, in a suit for redemption of the mortgage and reconveyance of the property, can demand production of a conveyance of the equity to a mortgagee by the trustee, with notice of the trust.—*Smith v. Barnes*, Law Rep. 1 Eq. 65.

3. A mortgagee must always produce the mortgage deed for inspection by the mortgagor.—*Patch v. Ward*, Law Rep. 1 Eq. 436.

4. In an administration suit, it was ordered, on the application of the defendant trustees, that a contract for sale made before the suit should be carried into effect, the purchaser consenting to be bound "as if he were a party to the suit, and the contract was specially the subject thereof." The purchaser having applied for reduction of the purchase-money, on account of adverse claims, was held entitled to an affidavit by the trustees as to documents in their possession relating to matters in question between him and them.—*Dent v. Dent*, Law Rep. 1 Eq. 186.

5. A clerk of persons against whom adjudication of bankruptcy is prayed, who has stated that he has no possession of their books, is not bound to produce them on the hearing.—*In re Leighton*, Law Rep. 1 Ch. 331.

6. A *subpœna duces tecum* requiring a solicitor, not a party, to produce all papers, &c., relating to all dealings between his firm and a party, for thirty-three years, without specifying particular documents, is too vague; but, if the witness admits that he has "the documents

thereby required," he must produce them, without being first sworn.—*Lee v. Angus*, Law Rep. 2 Eq. 59.

7. An application for liberty to seal up documents, by a defendant who has not been required to answer as to documents need not be made on the original summons for production; but will be granted on summons by the defendant, after his filing an affidavit admitting possession of the documents, without his paying the costs of his summons.—*Talbot v. Marshfield* Law Rep. 1 Eq. 6.

PROMISSORY NOTE—See BILLS AND NOTES.

RAILWAY.—See CARRIER; COMPANY, 1, 2; MASTER AND SERVANT, 1, 2; NEGLIGENCE, 1, 2, 3, 4; SPECIFIC PERFORMANCE, 2, 3.

RAPE.

1. On a trial for rape there must be some evidence that the act was without the woman's consent, even if she be an idiot; and if there are no appearances of force, and the only evidence of the connection is the prisoner's admission, coupled with the statement that it was done with her consent, there is no evidence for the jury.—*The Queen v. Fletcher*, Law Rep. 1 C. C. 39.

2. The offence of attempting to have carnal knowledge of a girl under ten years of age may be committed, though she consent.—*The Queen v. Beale*, Law Rep. 1 C. C. 10.

RECEIVER—See ADMINISTRATION, 2; TRUSTS, 2.

RECEIVING STOLEN GOODS.

1. A thief stole goods from the custody of a railway company, and afterwards sent them in a parcel, by the same railway, addressed to the prisoner. The theft being discovered, a policeman in the company's employ opened the parcel on its arrival at the station for delivery; and then returned it to a porter, to be kept till further orders. On the next day the policeman directed the porter to take the parcel to its address, when the prisoner received it. Held, on an indictment laying the property in the company, that the prisoner was not guilty of receiving stolen goods, as the goods had got back into the possession of the owner.—*The Queen v. Schmidt*, Law Rep. 1 C. C. 5.

2. The 24 & 25 Vic. c. 96, § 94,—which enacts, that if one or more persons, of two or more indicted for jointly receiving property, are proved to have separately received any part or parts of such property, the jury may convict such of said persons as have received any part or parts of the property,—includes cases where the prisoners separately received the whole of the stolen property.—*The Queen v. Reardon*, Law Rep. 1 C. C. 31.