it is clear that the parties intended he should so find.—*Whitworth* v. *Hulse*, Law Rep. 1 Ex. 251.

2. To an action again a railway company on an award, whereby the arbitrator found that the plaintiff had been damaged by reason of his messuage being injuriously affected "by the erection of an embankment and by the narrowing of a road" by the company, to the amount of £80, the company pleaded that the messuage was not injuriously affected by the narrowing of the road; and that the sum awarded included money of uncertain amount, which was awarded as compensation for damage sustained by reason of the messuage being, as the arbitrator erroneously supposed, injuriously affected by the narrowing of the road, by reason whereof the award was void. *Held* on demurrer a good plea.—*Beckett* v. *Midland Railway Co.*, Law Rep. 1 C. P. 241.

See Specific Performance, 3.

Bankruptcy.

1. A colonist, who had taken the benefit of a colonial insolvent act, alleged that a judgment had been recovered against him in a colonial court, from which he had unsuccessfully appealed; that the assignee, now in England, had assets from which, if the judgment were reversed, a large surplus would return to him; that an appeal from the judgment would probably be successful, but that the assignee, colluding with the judgment creditor, refused to appeal; and prayed that the assignee might be decreed to prosecute the appeal, or that the plaintiff might be enabled to do so in the assignee's name. *Held*, that there was no sufficient averment, that the plaintiff had failed to obtain justice in the colonial courts.—*Smith* v. *Moffatt*, Law Rep. 1 Eq. 397.

2. A person having a vested reversionary interest in a trust-fund of personal property in England became insolvent in Australia; and, after the property fell into possession, but before it was paid over, the insolvent died. *Held*, that if his domicile was Australian, his assignees were entitled to the fund; but that, if it was English, the executor, who had proved in England, was entitled; and the assignees, to obtain it, must sue such executor.—*In re Blithman*, Law Rep. 2 Eq. 23.

3. An assignment by a trader of all his property as security for an advance of money, which he afterwards applies in payment of existing debts, is not an act of bankruptcy, unless fraudulent; and is not fraudulent unless the lender knew that the borrower's object was to defeat or delay his creditors.—*In re Colemere*, Law Rep. 1 Ch. 128.

4. A colonial insolvent act provided, that if a creditor held any security on any part of the insolvent estate, the amount of such security should be deducted from his debt. *Held*, that this provision did not change the English rule, that a creditor, holding a security on the separate estate of a partner, may prove the whole of his debt against the joint estate, without giving up his security.—*Rolfe* v. *Flower*, Law Rep. 1 P. C. 27.

5. It is no good equitable plea to an action, that the defendant has been adjudicated bankrupt, and that the plaintiff has proved his debt in bankruptcy.—*Spencer* v. *Demmett*, Law Rep. 1 C. P. 123.

6. The word "creditor," in the Bankruptcy Act, 1861, means any one who could prove against the debtor's estate.—*Wood* v. *De Mattos*, Law Rep. 1 Ex. 91.

7. A protection order, under 12 & 13 Vic. c. 106, sec. 112, is good only against creditors who were such at the time of the bankruptcy, and had a right to prove their debts under it.—*Phillips* v. *Bland*, Law Rep. 1 C. P. 204; *In re Poland*, Law Rep. 1 Ch. 356.

8. A protection from arrest, under 7 & 8 Vic. c. 70, sec. 6, does not protect the debtor's goods from seizure.—*Davis* v. *Percy*, Law Rep. 1 C. P. 256.

9. A bill accepted for the accommodation of another may constitute a debt contracted without any reasonable expectation of being able to pay the same, and therefore may be ground for refusal of a bankrupt's discharge.—*Ex parte Mee*. Law Rep. 1 Ch. 337.

10. The court cannot both imprison a bankrupt, and suspend his order of discharge, under 24 & 25 Vic. c. 134, sec. 159.—*In re Marks*, Law Rep. 1 Ch. 334.

11. On an appeal in bankruptcy, evidence not before the commissioner cannot be used without leave, except to show what took place before him.—*In re Lascelles*, Law Rep. 1 Ch. 127.

12. A petitioning creditor is personally liable under 12 & 13 Vic. c. 106, sec. 114, for the fees of the messenger in bankruptcy, down to the choice of assignees; and the trade-assignee is liable for those incurred subsequently, if he has personally interfered by directing the management of property in the messenger's possession.—*Stubbs* v. *Horn*, Law Rep. 1 C. P. 56.

13. If an order, made by a commissioner of bankruptcy at his own instance, is discharged on appeal, the costs of the appeal may be given to the appellant.—*In re Leighton*, Law Rep. 1 Ch. 331.