

DIGEST OF ENGLISH LAW REPORTS.

sible to show what the testator treated as the Cleve Court estate to the time of his death; and that the subsequent purchases passed by the will.—*Castle v. Fox*, L. R. 11 Eq. 542.

4. Devise of a house in trust for A. to receive and take rents, and on A.'s decease in trust for the daughters of A. who should attain twenty-one, or be sooner married, residue of testator's estate over. A. had a daughter, and died before the latter attained twenty-one. *Held*, that the contingent remainder to the daughter was supported by the estate in the trustees; and that the rents accumulated between A.'s death and her daughter's attaining twenty-one formed part of the residuary estate.—*In re Edells's Trusts*, L. R. 11 Eq. 559.

5. Devise of lands in parish of H. to certain parties, "the rest of my freehold hereditaments situate in the parish of H." to S. The first devise was void. *Held*, that the land first devised did not pass to S., the devise to him being specific, not residuary.—*Springett v. Jennings*, L. R. 6 Ch. 333; s. c. L. R. 10 Eq. 488.

6. Devise of "all and singular the estate and mines of Aroa," in trust to sell, and legacies to A. and B. in full satisfaction of any sums due from testatrix. There was also the usual devise of lands held as trustee and mortgagee. The Aroa estate was subject to a mortgage, the money due on which was impressed with trusts for A. and B. *Held*, that A. and B. must elect between the mortgage money and the legacies under the will.—*Wilkinson v. Dent*, L. R. 6 Ch. 339.

7. A testator having two great-nephews, sons of a deceased niece, and also nephews and nieces, devised to his great-nephew A., and to his "great-nephew B., and to such other of my nephews and nieces," &c. In one place the testator called A. his "nephew." *Held*, that "nephews and nieces" did not include great-nephews and great-nieces.—*In re Blower's Trusts*, L. R. 6 Ch. 351; s. c. L. R. 11 Eq. 97.

8. Devise of land without words of limitation to a wife who was made executrix. Testator directed "my executrix" to pay a certain sum to B. annually. *Held*, that the wife took the fee.—*Pickwell v. Spencer*, L. R. 6 Ex. 190.

9. Devise in trust for E., with certain remainders to her children, and ultimate limitation as follows: "and in case every child born or to be born should die under the age of twenty-one years, and without leaving issue, then to the use of the heirs and assigns of E., as if she had continued sole and unmarried;" remainder to heirs of testator. E. had a child

who died, aged twenty-three, after the date of the will, at which date the child was aged sixteen, but before testator's death. E. assigned her interest under the will to the defendant. The plaintiff claimed as heir-at-law of the testator and of E. *Held*, that the ultimate limitation did not take effect; and if it did, yet E. had no power to assign the estate devised, and the plaintiff would take as heir of E. if she had continued unmarried. The rule in Shelley's case did not give E. the fee. Judgment for plaintiff.—*Brookman v. Smith*. L. R. 6 Ex. 291.

See AGE; APPORTIONMENT, 2; HUSBAND AND WIFE; ILLEGITIMATE CHILDREN, 1, 2; LEGACY; PERPETUITY; TENANCY IN COMMON.

DIVORCE.—See JURISDICTION.

DOMICILE.

A British subject domiciled in France, had two illegitimate children by a Frenchwoman, whom he afterward married, when the children were legitimated according to the law of France. *Held*, that the status of the children in England was to be determined by the law of France.—*Skottowe v. Young*, L. R. 11 Eq. 474.

EASEMENT.—See DEDICATION.

EJECTMENT.

Ejectment on a forfeiture for breaches of covenants in a lease. Plaintiff assigned as particulars of breaches a certain act of forfeiture, and failure to pay several quarters' rent since such act. *Held*, that alleging the second ground of forfeiture was no waiver of the first, or affirmance of the tenancy.—*Tolman v. Portbury*, L. R. 6 Q. B. 245; s. c. L. R. 5 Q. B. 288.

ELECTION.—See DEVISE, 6; WILL.

EMBEZZLEMENT.—See INDICTMENT.

ESTATE FOR LIFE.—See DEVISE, 9.

ESTOPPEL.—See COURT; TRUST.

EVIDENCE.

In a wall forming one side of a house belonging to A. was a stone with an inscription stating the wall to be the property of B., and that the ground eighteen feet south from the stone was given to the public for a street. B. had asserted no claim of title for at least thirty years. *Held*, that the fee of the street remained in B., and that A. had not gained a title to the wall by adverse possession. The inscription on the stone was sufficient to prevent such adverse possession arising.—*Phillipson v. Gibbon*, L. R. 6 Ch. 428.

See DEVISE, 3; ILLEGITIMATE CHILDREN, 3; LEGACY, 1; LIBEL; NEGLIGENCE, 1; NON-SUIT; PATENT, 5; PRESUMPTION; LIMITATIONS, STATUTE OF.