

DIGEST OF ENGLISH LAW REPORTS.

2. Right to participate in the profits of trade does not necessarily create partnership. Whether partnership exists or not must depend upon the real contract and intention of the parties.—*Mollero, March, & Co. v. The Court of Wards*, L. R. 4 P. C. 419.

3. Where the remedy in equity is correspondent to the remedy at law, and the latter is subject to a limit in point of time by the Statute of Limitations, a court of equity acts by analogy to the statute, and imposes upon the remedy it affords the same limitation.

The Statute of Limitations applies to a bill in equity brought by the executor of a deceased partner against the surviving partner, demanding an account of the partnership concerns. It seems that the *punctum temporis* from which the statute begins to run is the date at which the partnership came to be vested in the surviving partner.

There is no fiduciary relation between such surviving partner and executor; neither is such surviving partner a trustee, properly so called, for such executor. (HATHERLY, L. C., dissenting.)—*Knox v. Gye*, L. R. 5 H. L. 666.

PATENT.—See TRADE-MARK, 2.

PAYMENT.

Cancellation of a debt held not to be "payment in cash" of a sum due from the creditor for shares in a company, under the Companies Act, 1867, § 25.—*Cleland's Case*, L. R. 14 Eq. 387.

PEDIGREE.—See DOCUMENTS, INSPECTION OF.

PERSONALTY.—See REALTY.

PLEADING.—See CHARTER-PARTY, 1; EXECUTORS AND ADMINISTRATORS, 1.

POWER.

1. By statute a will speaks from the death of the testator; and a general devise operates as an execution of a power, unless a contrary intention appear in the will. By settlement stock was given to trustees, subject to such trusts as the settlor should by deed or will appoint, and, in default of such appointment, in trust for the petitioner. The settlor had executed a will five weeks before said settlement, containing a general residuary bequest. Held, that the court might look into surrounding circumstances in order to put a construction upon the above instruments, and that, under the circumstances of the case, the will did not act as an execution of said power.—*In re Ruding's Settlement*, L. R. 14 Eq. 266.

2. The donee of a power appointed a life interest to M., an object of the power, and then delegated to M. a power to appoint a life interest to a stranger to the power, and subject thereto appointed the property to the children of M., objects of the power. Held, the delegated power was void, but the subsequent appointment good.—*Carr v. Atkinson*, L. R. 14 Eq. 397.

3. Power given to A. to appoint by any deed or instrument in writing, with or without power of revocation, to be by her signed, sealed, and delivered in the presence of two or more witnesses. Held, to be well exercised

by the will of A., not expressed to be delivered, but stated in the attestation clause to be "signed, sealed, published, and acknowledged and declared" to be her will in the presence of three witnesses.—*Smith v. Adkins*, L. R. 14 Eq. 402.

4. A power of sale given by a testator to his executors and administrators may be exercised by an administrator *durante minore etate*.—*Monseil v. Armstrong*, L. R. 14 Eq. 423.

See SETTLEMENT, 3; SPECIALTY DEBT.

PREFERRED CLAIM.—See AGE; STAMP.

PRINCIPAL AND AGENT.

When an agent makes a contract on behalf of his principal, he impliedly warrants that he has authority to bind said principal; and if it turns out that he has in fact no such authority, he becomes liable on such warranty. Otherwise, if the party dealing with the agent knows all the facts, and contracts with the agent under an erroneous belief that such a state of facts gives the agent legal authority to bind the principal; under such circumstances, the agent is not personally liable.—*Beattie v. Lord Ebury*, L. R. 7 Ch. 777.

PRIVILEGED COMMUNICATION.

1. Documents passing between defendants or their agents and their solicitors *ante litem motam*, and described in the defendants' affidavit as "communications passing between us" or our agent "and our solicitors, with reference to matters which are now in question in this cause; and that the same are confidential communications as between solicitor and client," protected from production. A telegram passing *ante litem motam* between the defendants and a solicitor, then acting between all the parties in the matter, afterwards the subject of this suit, not privileged.—*Macfarlane v. Rolt*, L. R. 14 Eq. 380.

2. Letters or communications passing between solicitor and client before litigation commenced, but which afterwards did commence, relating to a contract which had been entered into and which led to litigation, are privileged.—*Wilson v. Northampton & Banbury Junction Railway Co.*, L. R. 14 Eq. 477.

3. Communications with counsel, with a view to obtain legal advice, or with a person not a solicitor, but acting as his deputy, are privileged. It appears that the court has discretion whether or not to order the inspection of documents admitted to be relevant and not strictly within the privilege. If documents are notes of a case for counsel, inspection should be refused. If they fall short of that, inspection should, as a general rule, be granted.—*Fenner v. London & South-Eastern Railway Co.*, L. R. 7 Q. B. 767.

PROOF.—See EXECUTORS AND ADMINISTRATORS; STAMP.

PROVISO.—See DEVISE, 4.

QUIT, NOTICE TO.—See NOTICE TO QUIT.

REALTY.

A floating derrick was anchored for several years under a license in a river, for the pur-