

REVIEW OF CURRENT ENGLISH CASES.

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BANKRUPTCY—COSTS ORDERED TO BE PAID BY CREDITOR TO TRUSTEE—SET-OFF OF COSTS AGAINST DIVIDEND—ASSIGNEE OF CREDITOR.

In re Mayne (1907) 2 K.B. 899, although a case in bankruptcy, deserves a passing notice. A creditor of the bankrupt lodged a proof against the estate which was contested, and in the result the creditor was ordered to pay the costs of the contestation to the trustee in bankruptcy. The creditor then assigned her claim to her solicitors who lodged a new proof which was allowed. The costs not having been paid, the trustee claimed the right to deduct them from any dividend payable in respect of the claim; this was resisted by the assignees but Bigham, J., gave effect to the trustee's contention.

PRACTICE—EXECUTION—MONEY BELONGING TO DEBTOR—DEATH OF DEBTOR BEFORE SEIZURE OF HIS MONEY BY SHERIFF—(R.S.O. c. 77, s. 18.)

In *Johnson v. Pickering* (1908) 1 K.B. 1 the Court of Appeal (Moulton, Farwell and Buckley, L.JJ.) have been unable to agree with the decision of Lawrance, J., (1907) 2 K.B. 437 (noted ante, vol. 43, p. 693). It may be remembered that the question in dispute was whether certain money which had been brought into an execution debtor's house, after a seizure under *fi. fa.* had been made of his household effects, and while the sheriff was in possession, could be said to be bound by the writ. The sheriff was ignorant of the existence of the money. The debtor having died and an order having been made for the administration of his estate in bankruptcy, the trustee in bankruptcy claimed the money which had been discovered after the debtor's death by his widow. Lawrance, J., thought the money was bound by the execution, but Moulton, L.J., was of the opinion that the statute authorizing the seizure of money does not have the effect of making the *fi. fa.* binding on money liable to execution, either as at common law from the date of the writ, or as under the Sale of Goods Act 1893, s. 26, from the delivery of the writ to the sheriff (R.S.O. c. 338, s. 11), but merely from