

## DIGEST OF THE ENGLISH LAW REPORTS.

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ACCUMULATION.—See ANNUITY, 1.

## ACT OF GOD.

The defendant owned land upon which had been built embankments for the purpose of damming up a natural stream which ran through the land, and thereby forming large pools. An extraordinary storm, accompanied by rain, heavier than ever known by witnesses to have taken place there previously, occurred; and, in consequence, the stream was so swelled that it carried away the plaintiff's bridges. The jury found that there was no negligence in the construction or maintenance of the embankments, and that the storm was of such violence as to constitute the cause of the accident *vis major*. *Held*, that the defendant was not liable.—*Nichols v. Marstrand*, L. R. 10 Ex. 255.

## ADEMPTION.

A testator bequeathed "all my shares or stock in the Midland Railway Company" to trustees upon certain trusts, and bequeathed his railway estate to others. At the date of his will the testator possessed £1,000 stock in said company, but afterwards transferred it to certain bankers by way of security for a loan made by them to one S., who gave the testator an undertaking to re-transfer the stock within three months. At the testator's death the stock had not been re-transferred; and subsequently the bankers sold it, and applied it to the payment of S.'s debt. S. paid £500 stock into court, but was unable to pay more. *Held*, that the trustees, and not the residuary legatee, were entitled to said £500 stock.—*Bothamley v. Sherson*, L. R. Eq. 304.

ADVANCEMENT.—See HUSBAND AND WIFE, 1.

AGREEMENT.—See CONTRACT; FRAUDS, STATUTE OF.

## ANNUITY.

1. A testator gave all his real and personal estate to trustees upon trust, so to vest his real estate in the Court of Chancery, and place his personal estate under its control, that both should be administered by said court. The testator then directed that certain annuities should be paid from the rents and profits of his real and personal estate, and that, subject to such annuities, the income of the trust estate should be accumulated at compound interest until the decease of the last survivor of said annuitants, or during such portion of such surviving annuitant's life as the rules of law should permit; and that on the decease of such survivor, all the trust estate and its accumulations should be applied by said court in the

purchase of land to be conveyed to G. and his heirs. *Held*, that, for the period which might elapse after the expiration of twenty-one years from the death of the testator to the death of the surviving annuitant, there was intestacy. G. was not entitled, during the life of the surviving annuitant, to the trust funds subject to the annuities.—*Tulbot v. Jevvers*, L. R. 20 Eq. 255.

2. A testator devised his estate to trustees upon trust to pay the income for the benefit of his wife and his daughter and son, and directed that, upon his youngest child attaining twenty-one, the trustees should invest a sufficient sum to secure the receipt of the annual sum of £50, which should be paid in instalments, as the dividends were received, to his wife; and, subject thereto, the trustees were to divide the whole of the trust estate in equal shares among the testator's children; and, upon the death of the wife, the amount invested to secure her annuity was to be divided in like manner among the children. The income of the whole fund did not amount to £50 a year. *Held*, that the widow was not entitled to have the deficit in the income made good from the principal.—*Mitchell v. Willton*, L. R. 20 Eq. 269.

## APPROPRIATION OF PAYMENT.

On Dec. 11, the plaintiffs paid over to W., their banker at Southwell, £900 in notes, and eight bills of exchange, amounting to £1,522; total, £2,422. This sum was paid under specific instructions to W. that it was for the express purpose of meeting certain acceptances for £2,230, payable at R.'s, a banker in London, on Dec. 12. On Dec. 11, W. forwarded said bills and £500 in notes and two other small checks, total £2,121, with a letter in printed form debiting R. with this sum, and crediting him with £849, which he was directed to pay. Under the head of "Advice of drafts" were described the plaintiff's acceptance for said £2,320. R. received W.'s letter on Dec. 12, and on Dec. 14 W. stopped payment. R. then refused to pay the amounts due on the plaintiff's acceptances, but retained said bills and notes sent to him by R. *Held*, that as between the plaintiffs and R. there was no appropriation of the bills and notes to the acceptances, and that R. was entitled to retain said bills and notes without meeting the acceptances.—*Johnson v. Roberts*, L. R. 10 Ch. 508.

BANK.—See HUSBAND AND WIFE, 1.

BANKRUPTCY.—See SALE; VENDOR AND PURCHASER, 2.

BEQUEST.—See REDEMPTION; ANNUITY; DEVISE; LEGACY; VENDOR AND PURCHASER, 1.

## BILL OF LADING.

The defendants bought from M. all the ore in a mine in Spain, to be shipped by M. on ships to be chartered by the defendants or by him. The ore was to be paid for by bills against bills of lading, or on the execution of a charter, and on a certificate that there wa