Recent English Decisions.

WILL—GIFT OVER TO HEIR OF DEVISEE IN FEE, ON THE LATTER DYING WITHOUT LEAVING ISSUE.

Taking up the cases in the Chancery Division, the first that calls for notice is *In re Parry and Daggs*, 31 Chy. D. 130, which was an application under the Vendor and Purchaser Act. The question submitted for the consideration of the Court was the effect of a will, whereby the testator devised real estate to his son and his heirs; and then declared that in case his said son should die without leaving lawful issue, then, and in such case, the estate should go to his son's next heir-at-law, to whom he gave and devised the same accordingly. The son having no living issue, contracted to sell the estate to Daggs, who objected that he was tenant in fee simple, subject to an executory devise over on his death without issue, but Bacon, V.C., held he was tenant in fee, and that the devise over was repugnant and void: and this decision was affirmed by the Court of Appeal. Fry, L.J., who delivered the judgment of the latter Court, held that the devise over was an attempt to render the estate inalienable in the hands of the son, who was tenant in fee, and was an illegal device, and therefore void. He sums up the conclusion of the Court as follows:

In the present case the testator's son is devisee in fee, and on his death, either one of his issue will be his heir, or some one else. If his heir be his issue, such issue will take under the original devise, and the gift over does not arise: if his heir be some one not his issue, such heir would take equally under the original devise, and under the gift over; so that the operation of the gift over, if it be valid, is not to alter the devolution of the estate, but only to fetter the power of alienation during the lifetime of the son. That was an illegal device, and consequently the gift over is void.

INFANT TRUSTEE—FORM OF DECREE FOR ACCOUNT.

In re Garnes, Garnes v. *Applin*, 31 Chy. D. 147, was a suit for an account against a trustee who had received moneys of the trust whilst an infant, and the question was simply as to the proper form of the judgment in such a case. Bacon, V.C., considered the account should be limited to moneys and properties received since the trustee attained twenty-one. But the Court of Appeal, without determining any question as to the liability of the trustee for his receipts before he attained twenty-one, directed the judgment to be varied by directing the account to be taken of all moneys and property of the trust received by the trustee in question, and of his dealings and transactions in respect of the same, and an inquiry as to the dates of, and circumstances attending, such receipts, dealings and transactions.

ASSIGNEE OF MORTGAGE—ESTOPPEL AS TO AMOUNT SECURED.

Bickerton v. *Walker*, 31 Chy. D. 151, is an important decision of the Court of Appeal, and illustrates the importance which is attached to a receipt for the consideration endorsed on a deed. On the 10th Feb., 1879, the plaintiffs mortgaged to B. for £250 their equitable interests in a sum of stock. By the mortgage deed they acknowledged the receipt of £250, and they also signed a receipt therefor endorsed on the mortgage deed. B. actually advanced only £91. On 11th March, 1879, B. transferred the mortgage to H., who gave full value for it as a mortgage for £250, and had no notice that the plaintiffs had not received that sum. The plaintiffs brought the action, claiming to redeem on payment of £91, but Bacon, V.-C., held that H. was entitled to hold the mortgage as security for £250, and the Court of Appeal affirmed his decision. A passage from the judgment of the Court, delivered by Fry, L.J., may be useful. After commenting on the ordinary rule that a prudent assignee of a mortgage before paying his money requires the concurrence of the mortgagor, or some information from him as to the state of the accounts between him and the mortgagee, and on the fact that in the present case the assignment of the mortgage was taken very shortly after its date, and before any money had become due on it, and that the assignee if he chose to run the risk of no subsequent payment having been made, could not be considered guilty of negligence in giving credence to the solemn assurance under the hand and seal of the mortgagor, and also to his receipt, endorsed on the mortgage, that the full amount of the mortgage money had been received, goes on to say at p. 159:

The presence of a receipt endorsed upon the deed for the full amount of the consideration money has always been considered a highly important circumstance. The importance attached to this circumstance seems at first sight a little remarkable, when it is remembered that the deed almost always contains a receipt, and often a release under the hand