

sheriff's hands and under which goods had been seized, but which, being claimed by the debtor's wife and her trustees, were subsequently abandoned; on the abandonment of the seizure notice of bankruptcy was served on the debtor, no return to the fi-fa having been made by the sheriff. The Court of Appeal (Williams, Komer, and Stirling, L.JJ.) held that although under *Miller v. Parnell*, 6 Taunt. 370, if a judgment creditor causes a fi-fa to be executed by seizure of the debtor's goods he cannot have a writ of capias, or another fi-fa to another county till the fi-fa under which the seizure is made is completely executed and returned, even though he abandon the seizure of the goods; yet this is not so when the abandonment takes place in consequence of the goods seized being claimed by a third party, consequently the creditor had the right to give the bankruptcy notice.

**PROBATE**—EXECUTORS ACCORDING TO THE TENOR—TRUSTEES—DIRECTION FOR ADVANCEMENT AND MAINTENANCE OF CHILDREN.

*In the goods of Kirby* (1902) P. 188, a testator by his will directed the payment of his debts and testamentary expenses by his "executors hereinafter named." No executors were in fact named, but the will contained an expression of the testator's wishes as to the education and advancement of certain of his children, the cost of which was to be deducted from their respective shares and the remainder of the shares invested. The will appointed the widow and two of the testator's sons "trustees," gave them certain bequests "for their services," and disposed of the residue of the testator's property. Jeune, P.P.D., held that the trustees were "executors according to the tenor" and entitled to probate.

**WILL**—BENEFICIARY GIVING INSTRUCTIONS FOR WILL—PROBATE—PROBATE SUIT—COSTS.

*Aylwin v. Aylwin* (1902) P. 203, deals only with a question of costs. The plaintiff propounded a will for probate, the defendant, an adopted daughter of the testator, filed a caveat, and in her statement of defence and counter-claim pleaded undue execution, unsoundness of mind and memory, and want of knowledge and approval by the testator, and she counter-claimed probate of a prior will. It appeared that the principal beneficiary named in the will propounded by the plaintiff had taken instructions for the