

DIGEST OF ENGLISH LAW REPORTS.

appointment being bad, the last clause executed the power in favor of B., and that there was no case of election.—*Wallinger v. Wallinger*, L. R. 9 Eq. 301.

3. A share of a residue was left in trust to pay the income to C. for life, and then the trust for M. provided that the trustees might, if they thought it desirable, purchase with such share an irredeemable annuity for the life of C. and for his benefit. No annuity was purchased, but the acting trustee, from time to time, paid C. three-fourths of the capital of the share. *Held*, that the power was well exercised *pro tanto*, and that M. was only entitled to what was left.—*Messena v. Carr*, L. R. 9 Eq. 260.

4. A., having a power of appointment in favor of children, who were entitled equally in default of appointment, after the appointment to his first daughter, discussed in s. c. L. R. 8 Eq. 312; 4 Am. Law Rev., 477, but now discussed on appeal, appointed one-fourth of the fund to his second daughter B., on her marriage, she being still an infant. But B.'s fund, like the one settled on the first daughter, was to go to A., in default of issue of the marriage. A. also gave bond for a like sum, to be held on like trusts, on which considerable sums had been paid. *Held*, that the reservation to A. of an ultimate interest in the fund appointed was not, on its face, a corrupt bargain to induce A. to appoint, but an exclusion of the rights of B.'s husband, and was not a fraud upon the power.—*Cooper v. Cooper*, L. R. 5 Ch. 203.

5. A. settled funds in trust for his daughters, B. and C., or one of them, as his son D. should appoint, and in default of appointment, the dividends to be paid B. and C. in equal shares during their joint lives, &c. A. died, C. married, and D. appointed the income of the fund to B. for life, reserving a power of revocation, and not informing B. of the appointment. D., in this, was carrying out A.'s orally expressed intention in the event of C.'s marriage, of which he disapproved. One-half the income was applied by B. to her own use; one-half was accumulated, and held in suspense. This appointment having been held void as a fraud on the power, D. appointed the income to B. during the joint lives of B. and C. absolutely, and B. was formally notified. There was no agreement between B. and D. as to the disposition of the income. *Held*, that, as it appeared to the court that D. had not a real intent that B. should deal with the whole fund as her own, but that B. was a mere

instrument to effect D.'s purposes, the second appointment was void.—*Topham v. Duke of Portland*, L. R. 5 Ch. 40.

See HUSBAND AND WIFE, 4; LIMITATIONS, STATUTE OF, 8; MARRIAGE SETTLEMENT; VOLUNTARY CONVEYANCE; WILL, 10.

PRACTICE.—See COSTS, 3-5; PLEADING, 2; PRIVILEGED COMMUNICATION.

PREROGATIVE.—See FISHERY.

PRESUMPTION.—See DEATH.

PRINCIPAL AND AGENT.—See HUSBAND AND WIFE, 2.

PRINCIPAL AND SURETY.—See ACTION.

PRIVILEGED COMMUNICATION.

Plaintiffs having claimed damages for injuries alleged to have been sustained by them on the defendants' line, defendants sent their medical officer before suit brought or expressly threatened, to report to them as to said injuries, that they might determine whether or not to yield to the claim. *Held*, that the report was privileged from inspection by the plaintiffs.—*Cossey v. London, Brighton & S. C. Railway*, L. R. 5 C. P. 146.

See LIBEL.

PRIVITY.—See ACTION; PARTIES.

PRODUCTION OF DOCUMENTS.—See INSPECTION OF DOCUMENTS; PRIVILEGED COMMUNICATION; VENDOR AND PURCHASER OF REAL ESTATE.

PROPERTY.—See COPYRIGHT, 1; INJUNCTION, 1; SECURITY.

PROXIMATE CAUSE.—See NEGLIGENCE; RAILWAY, 3.

PUBLIC EXHIBITION.

A., on behalf of himself and certain others, made a contract by which a builder was to erect and to let to them a grand stand for the Cheltenham races. Afterwards A., on behalf of the same parties, admitted persons to the stand, and among them the plaintiff, receiving 5s. each, which went to the race fund. A. employed a competent builder, and did not know that the stand was negligently built; but it was so, and in consequence fell, and injured the plaintiff. *Held*, that A. was liable. As in the case of carriers of passengers, there was an implied understanding that due care had been used, not only by him, but by independent contractors employed by him to construct the stand.—*Francis v. Cockrell*, L. R. 5 Q. B. 184.

PUBLIC POLICY.—See RESTRAINT OF TRADE. RAILWAY.

1. A railway company was held (mainly on the authority of previous cases) liable for an injury received by a passenger in its train, but on the line of another company, solely through