

DIGEST OF ENGLISH LAW REPORTS.

sell and re-invest. The wife appointed the lands as to four-fifths upon trust for four of the children of A. in fee; and as to one-fifth for another child of A. for life, and after his decease for the four first named in fee; the child last named was of unsound mind, but not so found by inquisition. *Held*, that the trustees still had the power to sell and re-invest.—*In re Brown's Settlement*, L. R. 10 Eq. 349.

2. F. by will gave his property to trustees, upon trust to raise £500 for such persons as his daughter M. should appoint by will, and to hold the residue upon trust for such of his other children in such shares as M. should appoint by will. M. by will gave all her real and personal estate, "whatsoever and where-soever, and of which I have any power to appoint or dispose of this my will" to her brothers, to convert and out of the proceeds to pay her debts, and as to the surplus upon trusts in favor of her brothers and sister. M.'s debts did not exceed £500. *Held*, that both the general and special power were well exercised.—*Ferrier v. Jay*, L. R. 10 Eq. 560.

3. By a marriage settlement property was settled upon trust for E., the wife, for life, and after her decease for such of the children of marriage, with such provisoes and conditions as she should appoint. She appointed one-fifth of the trust funds in trust to her daughter F. for life, for her separate use, "and so that she shall not have power to deprive herself thereof by anticipation," and after her decease, for such persons as she should appoint. E. died. *Held*, that the restraint upon anticipation violated the rule against perpetuities and was void, but the rest of the appointment was valid.—*In re Teague's Settlement*, L. R. 10 Eq. 564.

See CONFIDENTIAL RELATION; EXTINGUISHMENT.

PRACTICE.—See ACTION; PRINCIPAL AND AGENT, 2.

PREFERENCE.—See EXECUTOR, 1.

PRESUMPTION.—See BILLS AND NOTES, 1; REVOCATION; TRUST.

PRINCIPAL AND AGENT.

1. The defendant employed the plaintiffs, tallow-brokers, to purchase 50 tons of tallow for him. The plaintiffs having other orders, made contracts in their own names for the aggregate quantity ordered, which was the usual course of business, and sent the defendant a bought note signed by them as brokers for 50 tons, "Bought for your own account." The defendant refused to accept the tallow. *Held* (by BOVILL, C. J., and MONTAGUE SMITH, J.), that the defendant was bound by the usage,

although not aware of it, and was liable for the tallow; *held* (by WILLES and KEATING, J.J.), that the plaintiffs were authorized to buy for the defendant and not to sell to him, and that the custom could not change the character of the transaction.—*Mollett v. Robinson*, L. R. 5 C. P. 646.

2. S. was an attorney practising under the name of S. & C.; C., also an attorney, was his clerk at a salary, but not a partner. The defendant employed the firm and was liable to them for a bill of costs. The jury found that C. had authorised S. to contract in behalf of both, and that he had so contracted. *Held*, that S. being the real principal might sue alone for the bill of costs.—*Spur v. Cass*, L. R. 5 Q. B. 656.

3. The defendants were trustees under a creditor's deed executed by P., a debtor, by which P. was to carry on his business under their superintendence, and pay over all his gains to the plaintiffs, who weekly paid to him money for the disbursements of the ensuing week; he had no actual authority to pledge their credit. The plaintiffs furnished goods upon P.'s order. *Held*, that under the deed the relation of principal and agent did not exist as to the business, and that the defendants were not liable.—*Easterbrook v. Barker*, L. R. 6 C. P. 1.

4. The defendant wrote to the plaintiffs to send a sample rifle, and that he might want fifty. Afterwards the defendant sent by telegraph a message to send three rifles. The telegraph clerk by mistake telegraphed the word "the" instead of "three," and the plaintiffs sent fifty rifles; the defendants refused to accept more than three. *Held*, that the defendant was not responsible for the clerk's mistake, and that there was no contract for more than three rifles.—*Henkel v. Pape*, L. R. 6 Ex. 7.

See ACTION; MASTER AND SERVANT, 1.

PRIVILEGE.

A solicitor on examination was asked, "Where is J. C. residing at present?" The witness declined to answer the question, because he was the solicitor of J. C., and his residence came to the witness's knowledge in his professional capacity, and in the course and in consequence of his professional employment, and in no other way. *Held*, that the witness was not privileged from answering, the fact not having been communicated for the purpose of obtaining professional assistance.—*Ex parte Campbell*, L. R. 5 Ch. 703.

See SLANDER.