

DIGEST OF ENGLISH LAW REPORTS.

appointing an executor. Afterward he made a will in Italy, where he was domiciled, in which he made his wife his universal heiress, adding, "I erase, revoke, and annul every other act or last will which I may have made." *Held*, that the provisions of the first will being revoked as to the personality, the appointment of executor was revoked also.—*Cottrell v. Cottrell*, L. R. 2 P. & D. 397.

FACT, MISTAKE OF.—See **INSURANCE**, 5; **LAW, MISTAKE OF**; **VENDOR AND PURCHASER**, 1.

FELONY. See **NONSUIT**.

FIXTURES.

The owner of a worsted mill mortgaged it with all its fixtures. In the mill there were looms, through the feet of which nails were driven into wooden beams or plugs set into a stone floor. The nails could be withdrawn without serious injury to the floor. It was essential to the working of the looms that they should be kept steady, for which their own weight was insufficient. *Held*, that the looms passed by the mortgage.—*Holland v. Hodgson*, L. R. 7 C. P. (Ex. Ch.) 328.

FOREIGN GOVERNMENT.

The French Government contracted in England for the purchase of arms, to be paid for as delivered out of a fund lodged for that purpose with bankers in England, upon the receipt of certificates from J. Certificates being refused, the bankers declined to make payments. A bill in equity, in which the French Government was a defendant, praying inquiry, and accounts showing what was due under the contract, was granted, although the French Government did not appear.—*Lariviere v. Morgan*, L. R. 7 Ch. 550.

FRAUD.—See **BAILEMENT**; **BANKRUPTCY**, 2, 3; **SETTLEMENT**; **VOLUNTARY SETTLEMENT**.

FRAUDS, STATUTE OF.

A. entered into a contract with B. for the purchase of wool, and signed and handed to B. a memorandum of the terms of sale. B. subsequently wrote to A., "It is now twenty-eight days since you and I had a deal for my wool. . . . I shall consider the deal off as you have not completed your part of the contract. Yours, B." And on A. asking for a copy of said memorandum, B. wrote, "I beg to enclose a copy of your letter," enclosing a copy of the memorandum. *Held*, that there was sufficient memorandum of the contract signed by B. to satisfy the Statute of Frauds.—*Buxton v. Rust*, L. R. 7 Ex. (Ex. Ch.) 279; s. c. L. R. 7 Ex. 1; 6 Am. Law Rev. 485.

FRAUDULENT PREFERENCE.—See **BANKRUPTCY**, 3, 4; **TRADE-MARK**; **VOLUNTARY SETTLEMENT**.

FREIGHT.—See **CARGO INSURANCE**, 2; **MORTGAGE**.

GENERAL AVERAGE.—See **INSURANCE**, 3.

GUARANTY.

1. The defendant guaranteed the honesty of the plaintiff's servant. Subsequently, the servant embezzled money from the plaintiff, was discovered, and repaid the money, without the plaintiff's informing the defendant. The plaintiff retained the servant in his employ, and the latter again embezzled money

from the plaintiff, who then sued the defendant on his guaranty. *Held*, that the plaintiff, by retaining the servant in his employ after the first embezzlement without informing the defendant of the same, discharged the defendant from liability for the second embezzlement.—*Phillips v. Foxall*, L. R. 7 Q. B. 666.

2. Under 12 Car. II. ch. 24, a testator may appoint two guardians of his child, and authorize the survivor of the guardians, in case one should die, to nominate another guardian in place of the one dying.—*In the Goods of Parnell*, L. R. 2 P. & D. 379.

HUSBAND AND WIFE.—See **EXECUTORS AND ADMINISTRATORS**, 1.

INEVITABLE ACCIDENT.—See **BURDEN OF PROOF**.

INFANT.—See **GUARDIAN**.

INFRINGEMENT.—See **PATENT**.

INJUNCTION.

A bill was filed against a tenant for life, who was also executrix of a preceding tenant for life, praying an injunction to stop waste, for an account, and for an account of what had come to her hands as executrix of the preceding tenant for life, who was also charged with waste. Six years had elapsed from the time of the waste committed by the preceding tenant for life, but not from the date of his death. *Held*, that as an injunction could not be granted against the preceding tenant for life, there could be no account against his executrix; and that the claim was barred by the Statute of Limitations.—*Higginbotham v. Hawkins*, L. R. 7 Ch. 676.

INSOLVENCY.—See **BANKRUPTCY**.

INSURANCE.

1. The value of a current policy in a life insurance company in the course of liquidation is the sum that would buy a similar policy from a safe office.—*Holdich's Case*, L. R. 14 Eq. 72.

2. The plaintiff insured "chartered freight, valued at £7000, at and from Sydney to Calcutta and London," for the sum of £1000, said freight being for the carriage of goods only. Upon the arrival of the ship at Calcutta, the voyage was abandoned, and the ship took coolies and rice to Mauritius. The plaintiff thereupon produced an alteration of the policy, whereby it was agreed that the voyage was to Mauritius; and it was added, "the within interest is now declared to be on freight valued at £2000," the sum underwritten remaining the same. The vessel was wrecked, and the rice and freight thereof wholly lost; but the coolies were saved, and their passage-money paid. It was customary when insuring passage-money to describe it as freight of coolies, and the premium was generally less on passage-money than on freight of merchandise. *Held*, that under the circumstances "freight" did not include said passage-money, and that therefore the freight insured was totally lost. But that, as it appeared that there was not a total loss of full freight, and as the valuation of freight refers *prima facie* to the freight of a full cargo, the policy as applicable to such partial freight was an open policy for half the