

RECENT ENGLISH DECISIONS.

erroneous belief that the prospectus offered a charge on the property of the company, and stated in his evidence, that but for such belief he would not have advanced his money, but that he also relied upon the statements contained in the prospectus. The Court of Appeal, affirming Denman, J., held that notwithstanding the plaintiff was influenced by his own mistake he was entitled by reason of the material misrepresentations made by the defendants to recover against the defendants the amount advanced.

POWER OF ATTORNEY—RECITAL.

The case of *Danby v. Coutts*, 29 Chy. D. 500, strikingly illustrates the caution necessary to be observed by those who deal with a person acting under a power of attorney. The power of attorney in question recited that the plaintiff was going abroad and was desirous of appointing attorneys to act for him during his absence, but the operative part appointed the donees to be attorneys of the plaintiff without any limitation of time; it was held by Kay, J., that the recital controlled the operative part, and that acts done by the attorneys after the plaintiff's return from abroad without his knowledge were not binding on him. The plaintiff went abroad a second time and gave the same attorneys a further power of attorney, reciting that he had been in England and was returning abroad, and again constituting them his attorneys. A bank, from which the attorneys had, after the plaintiff's return from England, borrowed money, which they had, unknown to the bank, converted to their own use, lent further sums under the second power of attorney, but it was not shown that any officer or agent of the bank, who knew of the previous transactions, had seen the recitals in the second power, and it was consequently held there had been no notice or knowledge of facts brought home to the bank to give reasonable ground for suspicion as to the *bona*

fides of the attorneys, and that the subsequent transactions under the second power were therefore valid.

MARRIED WOMAN—TESTAMENTARY POWER.

The short point decided by Chitty, J., in *Rous v. Jackson*, 29 Chy. D. 521, is that when a married woman exercises a general testamentary power, the rule against perpetuities runs from her death and not from the date of the instrument creating the power. In arriving at this decision he refused to follow *Re Powell*, 39 L. J. Chy. 188, decided by James, V.-C.

ADMINISTRATION ACTION—JUDGMENT CREDITOR.

In *Re Womersley, Etheridge v. Womersley*, 29 Chy. D. 557, Pearson, J., refused to restrain a creditor who, prior to the granting of an administration order, had recovered judgment in a County Court against a sole executrix from pursuing his remedy against the executrix personally, but he ordered the receiver to pay the debt out of the assets without prejudice to the question whether the executrix should be allowed the amount so paid. This case of course does not in any way trench on those cases which show that proceedings by the creditor as against the estate will under such circumstances be stayed.

CHARITABLE LEGACY—LAPSE—CY-PRES.

The only remaining case to be noticed in the July number is *Re Ovey, Broadbent v. Barrow*, 29 Chy. D. 560, in which a legacy was left to an ophthalmic hospital which had ceased to exist, and the question was whether the legacy was to be treated as lapsed, or whether it must be administered *cy-pres*, and Pearson, J., determined that it had lapsed. The principle on which he proceeded is stated in *Clark v. Taylor*, 1 Drew, 644, which the learned judge quotes approvingly: "There is one class of cases in which there is a gift to charity generally, indicative of a general charitable purpose, and pointing out the