

RECENT ENGLISH DECISIONS.

ings being held unnecessary, and Proudfoot, J., having directed that the plaintiff should be deprived of her share of the costs, and should pay the rest of the costs, the Divisional Court upheld this order on appeal. In *Croggan v. Allen*, the proceedings for administration were also held to be unnecessary. Fry, J., says:—"I disallow the plaintiff's costs of the action. I have felt strongly inclined to go further, and to require the plaintiff to pay the whole costs of the action, but I think if I were to do so, I should be going beyond what is the ordinary practice of the Court; but with regard to the costs occasioned by the most idle proceeding insisted upon by the plaintiff, namely, the rendering the income account, I direct that all costs with respect to the income account, be paid by the plaintiff."

VENDOR AND PURCHASER—DEFECT IN TITLE.

The next case, *Brewer v. Broadwood*, p. 105, may be briefly noted. A vendor contracted to sell, and a purchaser to purchase an agreement for a lease. The purchase afterwards repudiated the contract. At the date of the agreement and of the repudiation, the agreement to leave was voidable at the will of a third party, but the third party took no steps to avoid the agreement, but was willing to confirm it on certain conditions. Fry, J., held that the purchaser was entitled to repudiate. He says:—"The first inquiry is, what is the obligation of a person who agrees to sell an agreement to lease? It may be shown, either from the surrounding circumstances, or by direct evidence, that the intention of the agreement is to sell only such interest, if any, as the vendor may have; and in such a case as that, the purchaser has no right to require a title to be shewn by the vendor; but in the absence of such evidence, the view which I take of such an agreement is, that it requires the vendor to show that he has a title to a valid agreement. . . . I hold that the vendor is bound to show that there is a subsisting valid agreement to lease."

WILLS.

The next case, *Re Featherstone's Trusts*, p. 111, shows the care that should be taken with regard to the grammatical construction of the language used in wills. W. Featherstone, by his will in 1869, gave all his real estate in the County of York to trustees upon trusts to sell, the proceeds to be subject to the disposition of his residuary personal estate, and he gave the residue of his personal estate to the same trustees upon trust to pay certain legacies, and subject thereto "rents and equally amongst all the children of J. D. and the said R. A., and I direct that the same shall be vested legacies at the time of my decease." Kay, J., held (i), citing authorities that, on the grammatical construction of the above words, and in the absence of anything in the will overruling the construction, they meant that R. A. was to take with the children of J. D., and hence, R. A. having died, leaving children, in the testator's lifetime, his children took nothing; for, as he pointed out, on the proper grammatical construction of the words used, it would be necessary, in order to enable the children of R. A. to take, to insert the word "of," so that it should read "of J. D. and of the said R. A."; (ii) that the concluding words of the above residuary gift must be taken to mean that the whole residue should be divided amongst such only of the residuary legatee as should survive the testator.

SETTLED ESTATE—EFFECTUATING LIFE TENANT'S CONTRACT FOR LEASE.

The last case in this number of the *Law Reports* is *Davis v. Harford*, p. 128. Here a point arose which Chitty, J., pronounced to be a simple one, though not covered by direct authority. By a will devising real estate in strict settlement, powers of granting building leases were given to any tenant for life and to trustees during the minority of any tenant in tail. The tenant for life, in pursuance of his power, entered into a contract to grant a building lease, but died without having executed a lease, and was succeeded by an infant tenant in tail. Chitty, J., held that the trust-