

## DIGEST OF ENGLISH LAW REPORTS.

indemnify him. J. afterwards told G. that G. was under no liability for him; but later he assigned the bond and letter to B., who took *bona fide* and for value. B. refrained from suing on the bond, on the strength of a promise by G. to pay as soon as he should come into certain property, G. not knowing his right to have the bond set aside. *Held*, that G. had a right to have both J. and B. restrained from suing on the bond.—*Graham v. Johnson*, L. R. 8 Eq. 36.

*See* EXECUTOR AND ADMINISTRATOR, 3.

BURDEN OF PROOF—*See* WILL, 1.

## CARRIER.

1. A parcel containing pictures was delivered to the defendants, common carriers, who gave a bill of lading by which they were not to be liable for loss by railway accidents, among other exemptions. By the Carriers' Act, s. 1, no common carrier by land is liable for pictures, *inter alia*, contained in any package delivered to be carried, when the value exceeds £10, unless at the time of the delivery, &c., the nature and value be declared and an increased charge paid. By s. 6, nothing in the act is to annul or in anywise affect any special contract between a common carrier and any other parties for the conveyance of goods. The value of said pictures was not declared. *Held*, that the defendants received said pictures as common carriers, in spite of the exemption in the bill of lading, and that, as said exemption was not inconsistent with the further exemption in s. 1 of the Carriers' Act, s. 6 did not apply, and the defendants were not liable. (Exch. Ch.)—*Baxendale v. Great Eastern Railway Co.*, L. R. 4 Q. B. 244.

2. A railway company refused to carry, free of charge, a "spring horse" (a substitute for a rocking-horse), weighing 78 lbs., and 44 inches long, tendered to them by a passenger, who was entitled to take with him 112 lbs. weight of "ordinary" or "personal" luggage. *Held*, that the company had a right to make an additional charge.—*Hudston v. Midland Railway Co.*, L. R. 4 Q. B. 366.

3. A carrier of passengers for hire does not warrant that the carriage in which a passenger travels is roadworthy. He is bound to use all vigilance to insure safety, but is not liable for a defect which could not be detected, and which arises from no fault of the manufacturer.—(Exch. Ch.) *Readhead v. Midland Railway Co.*, L. R. 4 Q. B. 379; s. c. 2 Q. B. 412; 2 Am. Law Rev. 107.

CASE STATED—*See* ERROR.

CHARGING ORDER—*See* FRAUDULENT CONVEYANCE.

## CHARITY.

1. A testator, after giving other legacies, gave £4000 to the Royal Society (incorporated "for improving natural knowledge"), £4000 to the Royal Geographical Society (incorporated for "the improvement and diffusion of geographical knowledge"), and like sums to three other charities. He directed the charitable legacies to be paid out of the pure personality, and gave the residue to his executors for their own use. He left £6711 pure personality, £8045 proceeds of leaseholds, and £867 proceeds of real estate in Madeira. *Held*, that the legacies to said societies were to charities within St. 9 Geo. II. c. 36, and that the proceeds of the Madeira estate were not an interest in land within said act. But (varying the order of STUART, V.C.) the debts, funeral and testamentary expenses, and costs of suit were payable ratably out of the three funds. Then the pure personality was to be first applied to the charities, other legacies to be paid out of the impure. The charities, so far as unpaid, were also to participate in the proceeds of the Madeira property, abating in the proportion of the impure personality to the Madeira property.—*Beaumont v. Oliveira*, L. R. 4 Ch. 309; s. c. L. R. 6 Eq. 534; 3 Am. Law Rev. 686, 722.

2. A charity was founded in 1626 for the clothing of eight poor boys of the town of E., and causing them "to be put to some petty school, to the end they may learn to read English, and there to be so kept until they shall attain the age of thirteen years, thereby to keep them from idle and vagrant courses, and also instruct them in some part of God's true religion." *Held*, that the primary object was education, and for very poor boys. *Scheme*: An elementary school for boys of E., with twenty-five free scholarships, and clothing for twenty, for boys selected for merit, &c., or for poverty, at the option of the trustees. A superior school for boys from the whole parish, with three free scholars selected by competitive examinations. Capitation fees to be paid by the boys of both schools.—*In re Latymer's Charity*, L. R. 7 Eq. 353.

3. The House of Lords had directed that a scheme be framed for a charity, leaving the question whether a proposed building should be erected to the discretion of those who would consider the scheme, and in the exercise of such discretion it had been determined not to build. *Held*, that said determination was final and conclusive on the House.—*Clephane v. The*