

among the testator's daughters. Instead of realizing the residuary personalty, the executors and trustees allowed the widow and children to live on the testator's farm, which the trustees worked, and maintained the widow and children out of the profits until 1882, when the youngest son attained twenty-one, and the residuary personalty and realty were then sold. The present action was commenced by one of the sons in 1890, the widow being still alive. Romer, J. held that the action was not one for a legacy to which the lapse of twelve years could be pleaded under 37 & 38 Vict., c. 57, s. 8 (R.S.O., c. 111, s. 23), but an action for a breach of trust to which "no existing Statute of Limitations applied" before the *Trustee Act of 1888* (54 Vict., c. 19 (O)) was passed; and that under s. 8 of that act (s. 13 of Ontario Act) the lapse of six years was a good defence in bar of the action. We may note that the Ontario statute does not apply except to actions commenced after 1st January, 1892.

### Notes on Exchanges and Legal Scrap Book.

**JOINT WILL.—VALIDITY.**—A joint will executed by two brothers, revocable at the will of either, is valid. *Hill v. Harding*, Ky., 17 S.W. Rep. 199.

**WITNESS.—EVIDENCE.**—When a witness has been in a position to know the facts, but his memory has grown dim, what he thinks he recollects is, if relevant, admissible in evidence in connection with the other testimony. *Harris v. Nations* (Tex.), 15 S.W. 262.

**EXECUTORY CONTRACT.—WASTE.**—The maxim that equity regards that as done which in good conscience ought to be done will not be applied in favor of one in possession of land under an executory contract of purchase, so as to enable him to waste or destroy the property or impair the vendor's security before the contract is performed. *Miller v. Waddingham* (Cal.) 11 L.R.A., 510; 25 Pac., 688.

**CRIMINAL LAW.—HOMICIDE.—MANSLAUGHTER.**—One who goes to another's house, where the inmates are quiet and inoffensive, and, with pistol in hand, originates a difficulty, and undertakes to intimidate them, and by his conduct causes a person to shoot him, is guilty of voluntary manslaughter, if after being shot he pursues and kills such person. *Main v. Commonwealth*, Ky., 17 S.W. Rep. 206.

**MARRIED WOMEN.—SERVICES.**—A married woman may recover in her own right for services rendered by her in caring for another than her husband, though the person cared for resides in the house with herself and husband as a member of the family, but not for board and provisions without proving that the husband did not furnish them. *Stamp v. Franklin* (Sup. Ct.), 35 N.Y.S.R., 828; 12 N.Y. Supp., 391.