

## RECENT ENGLISH DECISIONS.

bringing this action to impeach the securities, and to restrain a threatened sale of the property, and now moved for an injunction until the hearing. Brett, M.R., remarks, at p. 295, on the dangerous position in which the solicitor had put himself: "He, the person whose duty it is to settle her (the plaintiff's) affairs—to settle them in the best way for her—puts himself in the position of being one of her creditors; the solicitor who is to advise her makes himself her creditor, and I think that is a very dangerous position. . . . That gives the court a jurisdiction over him beyond the jurisdiction that it has over a mere mortgagee. It is the jurisdiction which the Court exercises as between solicitor and client, and I take it the real meaning of it is this: That where matters are called in question as between solicitor and client, inasmuch as the client has thereby lost the advice of the solicitor, the Court steps in and looks for itself, and as far as it can, to a certain extent, acts for the client in a way the solicitor would have done if he had been only solicitor, and expected to give her the advice for which he is paid as solicitor. Therefore, when a solicitor is nominally the mortgagee, and when he assumes to exercise his right to sell as mortgagee, it seems to me the Court has jurisdiction to inquire immediately into the circumstances of the case, and will not allow the solicitor to exercise his unqualified rights as mortgagee, but will only allow him to exercise those rights subject to the control of the Court, and to his doing so in an equitable and fair manner as between a solicitor and his client. Therefore in the present case the Court granted the injunction on the plaintiff paying into Court such a sum as the Court considered would cover the amount actually advanced by the defendant, and amending the writ so as to make it a simple action for redemption and injunction.

## WARD OF COURT—PARENTAL AUTHORITY.

The next case to be noticed is *In re Agar Ellis, Agar Ellis v. Lascelles*, at p. 317. The celebrated case, reported in L. R. 10 Ch. D. 49, in which the right of Mr. Agar Ellis to do what he thought best for the spiritual and temporal welfare of his children, despite the promise given by him to his wife before marriage, that the children of the marriage should be brought up as Roman Catholics, was affirmed, will be remembered. When the eldest daughter reached the age of sixteen Mr. Agar Ellis removed his opposition to her practising the Roman Catholic religion, but he insisted upon putting restrictions on her intercourse with her mother on the plea that he believed the mother would alienate her affections from him. The daughter was at this time a ward of Court, but notwithstanding this fact, and that the daughter was over the age of sixteen, the Court refused to interfere. The case is a striking enunciation of the law as to paternal control. The distinction is pointed out between cases where a child is away from the father, and the father endeavours by *habeas corpus* to recover possession of the child, and cases where, as here, the child is under the control of the father and it is sought to interfere with his power of control. The law is thus stated by Brett, M.R., at p. 326-7:—"The law of England is that the father has the control over the person, education and conduct of his children until they are twenty-one years of age. That is the law. If a child is taken away from the father, or if a child leaves the father and is under the control of, or with, other people, then the application for a *habeas corpus* is no part of the law of equity as distinguished from the Common Law of England. It is the universal law of England that if any person alleges that another is under illegal control by anybody, that person, whoever it may be, may apply for a *habeas corpus*,