

DIGEST OF ENGLISH LAW REPORTS.

could be recovered.—*Prehn v. Royal Bank of Liverpool*, L. R. 5 Ex. 92.

3. When a sale of real estate goes off through the fault of the vendor, the purchaser can recover the expense of investigating the title.—*Frend v. Buckley*, L. R. 5 Q. B. 213.

See COPYRIGHT, 2; NEGLIGENCE; NOTICE.

DEATH.

Those who found a right upon the fact that a person, who has not been heard of for seven years, survived a particular period, must establish that fact affirmatively by evidence.

A., a testator, died January 5, 1861, and left a residue to his nephews. The last that was known of B., one of his nephews, was that he was entered in the books of the American Navy as having deserted June 16, 1860, while on leave. *Held*, that B. was not shown to have survived A., and that his personal representatives could not claim a share under A.'s will.—*In re Phené's Trusts*, L. R. 5 Ch. 139.

DEBTOR AND CREDITOR.—*See* BANKRUPTCY, 2.

DESERTION.

A wife, who, after her husband has deserted her, but within the statutory time, becomes a party to a deed by which she agrees to live apart from him, and he agrees to pay her an allowance, although she has never been paid the allowance, can no longer establish the desertion.—*Parkinson v. Parkinson*, L. R. 2 P. & D. 25.

DEVISE.—*See* COVENANT; LIMITATIONS, STATUTE OF, 3; WILL, 6-12.

DIVORCE.—*See* CRUELTY; DESERTION.

DOWER.

A mother entitled to dower in land of an infant, which was taken by a railway company, and the value paid into court under the Lands Clauses Act, was held entitled to be paid the value of her right of dower out of the *corpus* of the fund, instead of receiving one-third of the dividends for life.—*In re Hall's Estate*, L. R. 9 Eq. 179.

EASEMENT.—*See* ANCIENT LIGHT.

ELECTION.—*See* COMPANY, 3.

EMBEZZLEMENT.

The officer of a friendly society may now be punished for embezzling their money, although some of their rules are in restraint of trade.—*The Queen v. Stainer*, L. R. 1 C. C. 230.

EQUITABLE CONVERSION.—*See* LEGACY DUTY.

EQUITABLE MORTGAGE.—*See* MORTGAGE, 1.

EQUITY.—*See* HUSBAND AND WIFE, 1; POWER, 1; SOLICITOR.

EQUITY PLEADING AND PRACTICE.

1. A married woman cannot present a petition of appeal without a next friend, although

another person joins in the petition, and the suit relates to her separate estate.—*Picard v. Hine*, L. R. 5 Ch. 274.

2. A married woman, administratrix, filed a bill against an accounting party to the estate of the intestate, by her next friend, and made her husband a co-defendant. The other defendant not having demurred, as he might have done, and not taking the objection till the hearing, an amendment was allowed making the husband a co-plaintiff.—*Burdick v. Garrick*, L. R. 5 Ch. 233.

See COSTS, 1, 2; HUSBAND AND WIFE, 4, 5; INSPECTION OF DOCUMENTS; PARTIES; TRUST.

ESTOPPEL.—*See* BILLS AND NOTES, 2; COMPANY, 2, 3.

EVIDENCE.—*See* BILLS AND NOTES, 1; DEATH; PLEADING, 1; PRIVILEGED COMMUNICATION; RAILWAY, 3; SLANDER; WILL, 8.

EXECUTOR AND ADMINISTRATOR.

1. The payment of one legacy by executors out of their own money, as a gratuity, is not an admission of assets for the payment of others. Neither is a payment out of the estate of one of two executors who were also residuary legatees, by his representatives, to the survivor in compromise of his claim as such residuary legatee. (*See* LIMITATIONS, STATUTE OF.)—*Cadbury v. Smith*, L. R. 9 Eq. 37.

2. Executors before probate directed A., the manager of the testatrix's chemical works, to continue to manage them, which he did. Goods of the testatrix thus in A.'s hands as agent of the executors were seized on *fi. fa.* on the ground that he was executor *de son tort*. The executors afterwards proved the will. *Held*, that A. was not executor *de son tort*.—*Sykes v. Sykes*, L. R. 5 C. P. 113.

See COSTS, 2; EQUITY PLEADING AND PRACTICE, 2; LIMITATIONS, STATUTE OF, 2, 3; WILL, 5.

EXECUTOR DE SON TORT.—*See* EXECUTOR AND ADMINISTRATOR, 2.

EXECUTORY DEVISE.—*See* FORFEITURE.

FINE.—*See* POWER, 1.

FISHERY.

A forfeiture of "liberties and free usages" does not include a several fishery. (*Per Kelly*, C. B., and Pigott, B.)

Such a fishery, if resumed by the crown, does not merge in the royal prerogative, so as not to be regranted.—*Duke of Northumberland v. Houghton*, L. R. 5 Ex. 127.

FIXTURES.

Trade fixtures, which are annexed to a building, by bolts and screws for the single purpose