

DIGEST OF ENGLISH LAW REPORTS.

that he had a lien upon it, nevertheless in all good faith sent for the deed, which was thereupon brought into court.

Crunch then suggested to the registrar that the deed should be impounded, and, notwithstanding a protest by Parsons, an order was made to that effect. Shortly afterwards Parsons made an application to the county court judge for the delivery up to him of the deed, but was refused.

Parsons appealed.

Reed, for the appellant, contended that it was a breach of faith on the part of the county court officials to detain the deed, and that if the trustee had any reason for supposing it to be invalid he should have taken proceedings to have it set aside in the legitimate way. He cited *Re Attwater*, 32 L. J. Bk'cy. 11; *Ex parte Southall*, 17 L. J. Bk'cy. 21; and *In re Moss*, 14 W. R. 814. L. R. 2 Eq. 345.

Winslow, for the respondent, said that the application to the county court judge was an appeal, and, not having been made within twenty-one days (the time limited for such matters), the present proceedings must fail for want of formality.

BACON, C. J.—The objection that it was an appeal from the registrar fails. The county court judge treated the application of Parsons as an original matter. Moreover any objection of that kind ought to have been made at the hearing in the court below. But it was not an appeal at all; Parsons was merely before the registrar as a witness, not as a party. The Court below had no right whatever to impound the deed, but if the registrar had thought fit a copy of it might have been made upon the spot. The fact that the deed may possibly have been fraudulent does not at all alter the matter; there is a regular course of proceeding provided for such cases. The order of the Court below must be discharged, and an order for the delivery of the deed to Parsons must be made. The trustee to pay the costs of the appeal, and of the application to the county court judge.

Order accordingly.

DIGEST.

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FOR NOVEMBER AND DECEMBER, 1870, AND
JANUARY, 1871.

(Continued from page 56.)

ACCOUNT.—See MORTGAGE; PARTNERSHIP.

ACTION.

An association, not incorporated, was formed of ship-owners for mutually insuring their vessels, and the premiums charged against the members made the fund for paying losses. The members, by a power of attorney, appointed the plaintiffs managers, with power to ask, demand, sue for, &c., all such sums of money as should become due and payable for premiums. The action was brought for premiums

due from a member. *Held*, that the plaintiffs were only agents of the persons to whom the money was due, and could not maintain the action.—*Gray v. Pearson*, L. R. 5 C. P. 568.

See CONFLICT OF LAWS, 2; PRINCIPAL AND AGENT, 2.

ADVANCEMENT.—See TRUST.

AGREEMENT.—See CONTRACT.

AMBIGUITY.

Devise "to my nephew, Joseph Grant." The testator's brother had a son named Joseph Grant, and the testator's wife's brother also had a son named Joseph Grant. *Held*, that there was a latent ambiguity, and that evidence was admissible to show which nephew was intended.—*Grant v. Grant*, L. R. 5 C. P. (Ex. Ch.) 727; s. c. 5 C. P. 380.

ANNUITY.

Testator gave property in trust, out of the annual profits to pay to P. B. during his life, the annual sum of £400, and the annual sum of £100 to W. B. during his life, and to S. C. during her life the annual sum of £600; the residue to P. B. and his heirs. The income was insufficient to pay the annuities in full, and was applied ratably. In 1868, W. B. died, and there was due to him a considerable arrear. *Held*, that the annuities were a continuing charge on the rents and profits until paid, and that the increase arising after the death of W. B. should be applied to paying ratably, first the arrears, and then the annuities.—*Booth v. Coulton*, L. R. 5 Ch. 684.

See FORFEITURE.

APPOINTMENT.—See POWER.

APPORTIONMENT.—See ANNUITY.

APPROPRIATION.—See CHARGE.

ARBITRATION.

An arbitrator made an award; an accidental omission in respect of costs being discovered, he made a new award identical with the first, except that the omission was supplied. *Held*, that when he had signed his award, the arbitrator was *functus officio*, and could not correct any mistake; *also*, that an arbitrator, having power by an order of a Court of Equity to award costs, could award costs as between solicitor and client.—*Mordue v. Palmer*, L. R. 6 Ch. 22.

ASSIGNMENT.

1. The defendant agreed to sell to P. certain leasehold premises, and received part of the purchase-money, the conveyance to be executed in twelve months upon payment of the residue. Afterwards P. agreed to assign to the plaintiff this contract as security for an advance, and the plaintiff gave notice thereof