

DIGEST OF ENGLISH LAW REPORTS.

covery and relief, that, by an act of Congress, the property of all agents of the Confederate Government was liable to confiscation, and that proceedings *in rem* were pending in the United States to confiscate his property on the ground of such agency. The plea was allowed, on the ground that the plaintiffs were not entitled to the aid of equity to obtain the money held by the defendant as agent, without waiving the forfeiture to which his agency exposed him in the United States.—*United States of America v. McRae*, Law Rep. 4 Eq. 327.

See VENDOR AND PURCHASER OF REAL ESTATE.

ESTATE BY IMPLICATION.—See WILL, 5.

ESTATE TAIL.—See DEVISE, 2.

EVIDENCE.

1. The prisoner, an attorney, was indicted for perjury in having sworn that there was no draft of a certain paper made by his client. No notice to produce the draft had been given to the prisoner; and, on his trial, it was proved to have been last seen in his possession. *Held*, that secondary evidence of its contents was inadmissible.—*The Queen v. Elworthy*, Law Rep. 1 C. C. 103.

2. On a trial for felony in a colony, the jury disagreed; on a new trial, some of the witnesses having been resworn, their evidence on the former trial was read to them from the judge's notes, both the prosecution and the prisoner having liberty to examine and cross-examine. *Semble*, that this was irregular, and could not be cured by the prisoner's consent.—*The Queen v. Bertrand*, Law Rep. 1 P. C. 520.

See CONFESSION; DEPOSITION; EASEMENT; INSANITY; MASTER AND SERVANT; NEGLIGENCE; PERJURY; PRESUMPTION; SALE, 2.

EXECUTION.—See ASSIGNMENT, 3; BANKRUPTCY, 3; COMPANY, 2, 3; DIVORCE, 2; SHERIFF, 1.

EXECUTOR AND ADMINISTRATOR.—See ADMINISTRATION; LIMITATIONS, STATUTE OF.

FACTOR.

The Factors' Act (5 & 6 Vic. c. 39) provides in sec. 1, that a pledge of goods by a factor, as well for any original loan, advance, or payment, made on the security of such goods, as also for any further or continuing advance in respect thereof, shall be valid; and, in sec. 3, that the act shall not extend to any pledge for, or in respect of, any antecedent debt, owing from the factor to the pledgee, but that for the purpose of protecting all such *bona fide* loans, advances, and exchanges as aforesaid, and to no further or other intent or purpose, such contracts shall be valid. A., a factor, pledged

goods of his principal to B.; first, to secure the payment of an acceptance of A. in B.'s hands, not then due, which had been given to protect B.'s liability on a contract as A.'s broker; secondly, to repay to B. his loss on a resale of goods which B. had purchased for A. in his own name, and which had not been paid for. *Held*, that the pledge was not protected by the Factors' Act; and *semble*, that both liabilities were antecedent debts.—*Macnee v. Gorst*, Law Rep. 4 Eq. 315.

FOREIGN STATE.—See EQUITY PLEADING & PRACTICE.

FORFEITURE.—See EQUITY PLEADING AND PRACTICE.

HUSBAND AND WIFE.—See ADEMPMENT, 2; LANDLORD AND TENANT, 3; TRUST, 1, 2; VOLUNTARY CONVEYANCE.

IMPLIED ESTATE.—See WILL, 5.

INCOME.—See ADMINISTRATION, 1-3; ANNUITY; LEGACY, 1.

INDICTMENT.

An indictment, charging the prisoner with neglect to provide food and clothing for his child, sufficiently avers his ability to provide, it being implied in the word "neglect."—*The Queen v. Ryland*, Law Rep. 1 C. C. 99.

INJUNCTION.—See NUISANCE.

INSANITY.

If the disease be once shown to exist in the mind of a testator, it matters not that it is discoverable only when the mind is addressed to a certain subject, to the exclusion of all others, or that the subject on which it is manifested has no connection with the testamentary disposition; and, if a diseased state of mind is proved to have once existed, the burden of proving restored health lies on those who assert it.

The tests of insanity considered.

The question of insanity is a mixed one, within the range partly of common observation and partly of special medical experience; and the court, in searching for a conclusion, must inform itself of the general results of medical observation, and must make a comparison between the sayings and doings of the testator at a time when the disease is alleged to exist, and (1) his sayings and doings at a time when he was sane, or the sayings and doings of those persons whose general temperament and character bear the closest resemblance to his own, and (2) the sayings and doings of insane persons.—*Smith v. Tebbitt*, Law Rep. 1 P. & D. 398.

INTEREST.—See ADMINISTRATION, 2, 3; LEGACY, 2.

JURISDICTION.—See ADMIRALTY; APPEAL; LICENSE; PERJURY, 2.