

*Of Chattels—Breach of Warranty.*—Although a purchaser, when sued for the price of goods sold, may set up a breach of warranty, as a defence by way of recoupment or counter-claim, yet he is not bound to do so, or be precluded from any claim or action in respect to: *Barth v. Burt*, 43 Barb.

He may after the recovery of a judgment against him for the price of the goods, bring an action against the vendor for a breach of warranty: *Id.*

#### WILL.

*“Heirs” in a Devise, when a Word of Limitation and not of Purchase—Creation of Estates Tail by Will—Grant of Income, when sufficient to pass whole Estate devised.*—A testator devised to his daughter, then and at the time of his death unmarried, certain real estate, “in trust for her heirs until they are twenty-one years old, until which time she is to have the income arising therefrom for her support and the support and education of her heirs, and should she die leaving no heirs of her body, then said properties to revert to her brothers or their heirs.” *Held*,

1. That the word “heirs” must be considered a word of limitation and not of purchase; and the failure of heirs contemplated in the devise over, an indefinite failure: *Allen and Wife v. Henderson*, 13 Wright.

2. That the devise in trust for the issue of her body, with a devise over limited upon an indefinite failure of issue, created an estate tail, if any interest vested in her: *Id.*

3. That the grant of the income did pass the estate; and therefore

4. That the trust failed and the devisee took an estate in fee tail, which, by the Act of 27th April 1855, became enlarged into a fee simple: *Id.*

---

#### LIST OF NEW LAW BOOKS RECEIVED BY THE PUBLISHERS OF THE AMERICAN LAW REGISTER.

**BUCK.**—*Massachusetts Ecclesiastical Law.* By EDWARD BUCK, of the Suffolk Bar. Boston: Gould & Lincoln, 1866. pp. 310. Cloth \$1.75.

**HAVEN.**—*The Legal Profession in America.* An Address before the class of 1865 of the Department of Law in the University of Michigan. By E. O. HAVEN, D. D., LL. D., President of the University. Ann Arbor: A. W. Chase, 1866. Pamph. pp. 19.

**DANIELL.**—*Pleadings and Practice of the High Court of Chancery.* By EDMUND ROBERT DANIELL, F. R. S., a Commissioner of the Court of Bankruptcy. 3d English Edition: With considerable alterations and additions, adapting the text to the last general orders, and the most recent decisions of the court. By THOMAS EMERSON HEADLAM, M. P. 3d American Ed. To which are added several entirely new chapters, and copious notes, together with an appendix of precedents, adapting the work to American Practice in Chancery. By O. E. PERKINS. Boston: Little, Brown & Co., 1865. 3 vols. 8 vo., \$22.50.