

TRUSTS AND TRUSTEES.

Power of Court to appoint a new Trustee.—Where a *cestui que trust* resided in New York, and the original trustee, although he died in Connecticut, resided in this state when he was appointed, and had the trust fund here at the time, and partly executed the trust here; and the *cestui qui trust* was an infant, and needed the fund for his support; it was *held* that under these circumstances, the power of the court to appoint a new trustee, within its own territorial jurisdiction, could not be doubted: *Curtis v. Smith*, 60 Barb.

Held, also, that the Supreme Court was not divested of jurisdiction by the removal of the former trustee from the state, although he took the fund with him: the *cestui que trust* continuing to reside here: *Id.*

VOLUNTARY PAYMENT.

No action will lie to recover back money voluntarily paid with a full knowledge of the facts and circumstances under which it was demanded, though the payment may have been made under a protest: *Awalt v. Eutaw Building Association*, 34 Md.

WATERS AND WATERCOURSES

Diversion—Freshet.—The owner of land which is being inundated by a stream breaking away from its channel, may legally turn it back to its old channel. But he would have no right, in preventing the inundation of his own land, to cause it to flow on to the land of another except into its old channel: *Tuthill v. Scott*, 43 Vt.

The stream in question flowed in a well-defined channel in the land of the defendant until the freshet of 1869, when it broke away, flowed down the highway a short distance and turned on to the plaintiff's land. The plaintiff turned it back to its old channel. The highway surveyor, without right, then filled up the old channel by making a road-bed therein, thereby causing the water to flow elsewhere on the defendant's land. The defendant then took measures to stop it from flowing on to his land, and thereby caused it to flow on to the plaintiff's land again. *Held*, that this was against the plaintiff's right, and he could maintain an action therefor without waiting until he had suffered actual damages from the effects of the water: *Id.*

NOTICE OF NEW BOOKS.

CASES IN THE UNITED STATES CIRCUIT COURT FOR THE EIGHTH CIRCUIT. By JOHN F. DILLON, Circuit Judge. Vol. 1. Davenport, Iowa: Griggs, Watson & Day.

We take pleasure in calling attention to this volume. It is the first fruit of the new system of Circuit Courts organized under the Act of Congress of April 10th 1869, and we think few readers will examine it even cursorily without being greatly impressed with the extent and importance of the jurisdiction of these courts. The Eighth Circuit comprising the states of Minnesota, Iowa, Missouri, Arkansas, Kansas and Nebraska, covers a wide field in territory, and, as this volume shows, in the variety of novel and interesting questions presented for adjudication. Among these we noted the status of