

on what they respectively take: In re Turnbull, [1905] 1 Ch. 726.

The testamentary expenses and debts must be borne by the realty and the \$10,000 pro rata. All parties have agreed not to ask anything from the personal property specifically given.

The cases cited in Theobald, 6th ed., p. 795, support the statement that real estate (not charged with debts) and specifically bequeathed personalty share pro rata; so that, as far as possible, the testator's intention may not be frustrated and any particular devisee or legatee be disappointed.

Here, both realty and personalty are charged, and the same reasoning leads to the like result.

As between the University and those taking shares of rental, the present value of the share of the rental, having regard to expectation of life, after deducting succession duty, is the proper basis for the apportionment of the share to be charged to the realty.

The costs of this motion will form part of the testamentary expenses and be raised in the same way.

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MULOCK, C.J.Ex., IN CHAMBERS.

APRIL 22ND, 1915.

CRAWFORD v. BATHURST LAND AND DEVELOPMENT  
CO.

*Parties—Addition of Co-plaintiff—Class Suit—Company—Alleged Estoppel of Original Plaintiff—Rule 134.*

Appeal by the defendants from an order of the Master in Chambers adding one T. A. Eaton as a party plaintiff.

The action was brought by J. P. Crawford, on behalf of himself and all other shareholders of the defendant company, except the individual defendants, alleging that the individual defendants had been illegally elected directors of the company, had fraudulently appropriated to their own use \$11,601.75 of the company's money, and had illegally paid dividends to shareholders out of capital, and claiming to have the election set aside, and the individual defendants ordered to pay to the company the \$11,601.75 and the amounts illegally paid as dividends.

The individual defendants denied the charges, and set up that the plaintiff Crawford was fully aware of all the trans-