

James Charles having died leaving issue, it was held on a previous application (1 O. W. R. 427) that he took an estate for life only in the lands in question.

The question for the opinion of the Court was whether the sum of \$100 payable to the testator's widow, Ellen Padget, who survived, was still a charge on the lands devised to James Charles and now the property of his infant children.

C. H. Maclaren, for the widow.

T. Nixon, for the executors.

Travers Lewis, K.C., for the infants.

CLUTE, J.:— . . . I am of opinion that the only interest charged with the annuity was that which the son James Charles received. This charge is raised by implication that he ought not to take the benefit without discharging the obligation. This, it seems to me, cannot extend to that which he did not receive; that is, the reversion in the land which passes to his children "unclouded by condition of title."

I am, therefore, of opinion that the sum of \$100 payable to Ellen Padget ceased to be a charge upon the lands in question upon the death of James Charles.

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DIVISIONAL COURT.

NOVEMBER 23RD, 1909.

STEWART v. COBALT CURLING AND SKATING  
ASSOCIATION.

*Negligence—Breaking of Railing of Spectator's Gallery in Hockey Rink—Injury to Spectator—Liability of Owners—Insufficient Strength of Railing—Employment of Competent Architect — Warranty of Safety.*

Appeal by the defendants from the judgment of RIDDELL, J., 14 O. W. R. 171, finding the defendants liable in damages for personal injuries sustained by plaintiff, owing to the breaking of a railing in front of the gallery of the defendants' rink, whereby the plaintiff, who had paid for admission to see a hockey match, was thrown down upon the ice.

The appeal was heard by BOYD, C., MAGEE and LATCHFORD, JJ.