before 1882 who was entitled to *choses in action*, but had no separate property, nor any property of which she could dispose by will; made, without the assent of her husband, a will, by which she appointed executors, and gave all her property away from her husband. After her death, probate of her will was granted in general form to one of the executors. This action was brought by the husband against the executor to recover the *choses in action*. Kay, J., dismissed the action on the ground that so long as the probate remained unrevoked the plaintiff could not claim adversely to the will, and that his remedy was to appeal to the Probate Division to revoke the probate, and to grant him administration of such estate of his wife as she could not dispose of by will. But the Court of Appeal decided that the effect of the general probate was only to enable the executor to get in all the assets of the wife, whether she had power to dispose of them by will or not, and did not affect the beneficial title to them; and that as to the *choses in action* to which the husband was entitled, the executor became trustee of them for him, and that the husband was entitled to have them transferred to him subject to the same deductions as they would have been subject to, if the husband had taken out administration under the old practice, under which the probate would have been limited to such part (if any) of the estate as the wife could properly dispose of by will, and administration as on an intestacy granted as to the rest of the estate.

ADMINISTRATION—DEBTS—MARSHALLING ASSETS—PECUNIARY LEGACIES—REAL ESTATE CHARGED WITH DEBTS.

In re Bate: *Bate* v. *Bate*, 43 Chy.D., 600, a question arose whether, where real estate was devised charged with payment of debts, the real estate could be resorted to, before the personal estate not specifically bequeathed, including what was required for payment of pecuniary legacies, had been exhausted. Kay, J., answered this question in the negative, and in so doing took occasion to point out that the statements to the contrary in Seton on Decrees, 4th ed., 989, 990, Snell's Principles of Equity, Jarman, and Theobald were erroneous.

PRACTICE—REVIVOR—ACTION FOR INJUNCTION AND DAMAGES—DEATH OF SOLE PLAINTIFF.

In *Jones* v. *Simes*, 43 Chy.D., 607, a motion was made to discharge an order to continue proceedings taken out by the executor and devisee of a sole plaintiff who had died. The action was for a mandatory injunction, and damages for obstruction of light to a freehold house. The plaintiff died more than six months after the writ issued. It was contended that the cause of action did not survive; but it was held by Chitty, J., that as to the damages, inasmuch as under Ord. xxxvi., r. 58, in the case of a continuing damage, the damages are now to be assessed not merely up to the date of the writ as formerly, but up to the time of the assessment, the executor might continue the action to recover damages accrued within six months prior to the testator's death, to which he would be entitled under 3 & 4 W. 4, c. 42, s. 2 (and see R.S.O., c. 110, s. 9, which contains no limit as to six months). We may observe, however, that there appears to be no provision in Ontario by rule or statute similar to that contained