

In re WHITSHIRE'S ESTATE

Will—Administration summons—Admission of assets—Priority of legacies—Annuity

An executor cannot be charged upon an admission of assets on an administration summons.

A testatrix bequeathed the residue of the monies to arise from her real and personal estate to the children of W., and directed that her trustee should in the first instance out of such residue pay an annuity of £20. The assets were insufficient.

Held, that the pecuniary legatees were entitled to be paid in priority to the annuitant.

V. C. K. CRAIG V. WHEELER Jan 23.
Will—Conversion—Annuities—Leaseholds—Lands—Rents—Ref. nec.

If a testator gives personalty or personalty and realty combined, whether charged or not to one for life with remainder over, and there is no specific indication of intention, either that he wishes it to be held in specie or converted, an intention that he wishes it to be converted will be presumed. But if there is on the face of the will any specific indication of intention either way this rule as to conversion does not apply.

An inference that a testator contemplated an appropriation of a fund for a particular purpose is not a sufficient indication of a wish that there should be a conversion.

The words "lands" and "rents and profits" do not point to leaseholds if there be freeholds although sufficient to pass leaseholds. If the Court considers that there ought to be a conversion it may still direct a reference to chambers to ascertain whether it will be for the benefit of the parties that the property should be held in specie.

V. C. S. GREENWAY V. GREENWAY Jan 16, 17
Will—Construction—Real and personal estate blended together—Estate tail—Conversion.

A testator gave his real and personal estate in trust as to the annual income for E & C or the heirs of their bodies, and if either should die leaving heirs of his body his share should go to such heirs, but if one die without issue then the whole income should go the survivor, and in case of his death to his heirs. But in case both should die without issue, then the whole property to be equally divided among his next of kin. And he appointed executors with power to sell, dispose of and convert into money his real and personal estate by public auction or private contract as to them should seem meet.

Held, that upon the whole language of the will, there was a conversion of the real estate, and that there was no devise in specie to E and C as tenants in tail.

COMMON LAW.

Q. B. REGINA V. JOHNSON Feb 8
Practice—Indictment for obstructing highway—New trial

Where a defendant is acquitted on an indictment for obstructing a highway the court will not grant a new trial on the ground that the verdict is against the evidence.

C. P. WARNE V. HILL Jan 30
Costs of the day—How suit entered—Both parties in default.

A case was called on at the sittings of the court and the plaintiff and his witness not being present the judge ordered a non-suit to be entered upon which the defendant immediately left the court. Soon after he had gone the plaintiff arrived and discovered that the jury had not been sworn upon which the learned judge said that he would wait for the defendant till one o'clock.

The defendant however had left the town and therefore did not appear and the judge then ordered the words "struck out" to be substituted for "non-suit." The plaintiff it appeared had mis-

taken the judge to say the day before that common jury cases were not to be taken on that day and therefore he and his witnesses had not come into court.

Held, that as the defendant was in default in not seeing that the jury were sworn and the plaintiff in default in not being in court when the cause was called on, the costs of the day and this rule should be costs in the cause.

EX. C. CAZENOVE ET AL ASSIGNEES V. D. E. ASSURANCE CO Feb 4.

Policy of insurance—Condition—Forfeiture—Untrue statement.

A policy of insurance effected by A. on his own life was subject to a condition that it was to be void in case any untrue statement was contained in any document deposited with the Insurance Company in relation to the insurance by the assured. Certain documents were so deposited with the company containing, among other matters the questions following:—Q "Whether assured had since infancy had disease requiring confinement?" A "No." Q "How often had medical attendance been required?" A "One year ago." Q "For what period confined to bed or house?" A "A week." Q "Name and address of medical attendant employed on occasion of such disease?" A "Dr. B." In fact the assured had subsequently to the disease attended by Dr. B. another and a dangerous illness, for which three other medical men had attended him.

Held, that the above answers were untrue and also the policy void.

Q. B. PRIOR AND OTHERS V. WILSON Feb 7.
Damages—Contract over—Notice

A ship belonging to the defendant was taken by the plaintiffs for the purpose of carrying coals to the coast of Africa. It was known by the defendant that Admiralty contracts were out for sending coals to this coast and that the bills of lading were to be sent in by the 31st of December. The defendant having failed to perform his contract *Held*, that he was liable in damages for the expenses incurred by the plaintiffs in consequence of such failure in the performance of their contract with the admiralty, the above notice of that contract being sufficient to render him in law so liable.

REVIEWS

Among our late exchanges we have received—

THE WESTMINSTER REVIEW, for October. New York; Leonard Scott & Co.

The first article under the head of Neo-Christianity, contains a review of a book now in its second edition, formed of a chain of essays by several of the leaders of thought in the English universities.

The second article is a review of "Seven years Residence in the Great Deserts of North America," and gives some statistical information regarding the Indian population of this continent, the extent of their territory, the usual reference as to the origin of the American tribes, with some remarks upon the character, social organization and form of government of the Aborigines.

There next appears a just and well written paper upon the Biography of Robert Owen, the great Social Reformer.

The *Organization of Italy*, affords some interesting pages upon the laws and particular government of the Italian States.

A very learned paper upon the *Antiquity of the Human Race*, forms a fitting conclusion to the criticism which the theory of Darwin as to its origin, has produced, but like much of that disunion there appears a hesitation in offering a strong support to any opinion.

In succeeding papers we have a view of the social position of Russia and the improvement promised to, by the generous efforts of Alexander II, an article upon the English National Defences, and an interesting paper upon Thackeray as a *Novelist and Photographer*.