

right one. The testator, it may be remembered, having several houses at Wimbledon gave one to his son (which devise lapsed by reason of his son being a witness to the will) and then devised all the remainder of his freehold lands at Wimbledon and elsewhere. The Court of Appeal held that this was a residuary devise within the Wills Act, and carried the lapsed devise.

**PRINCIPAL AND AGENT**—IMPLIED WARRANTY OF AUTHORITY—ATTORNEY INNOCENTLY ACTING UNDER FORGED POWER—AGENT, LIABILITY OF TO THIRD PARTY—TRANSFER OF STOCK UNDER FORGED POWER—FORGERY—COSTS.

*Oliver v. The Bank of England* (1901) 1 Ch. 652, was a contest between two innocent parties as to which of them should suffer for the consequences of a forgery committed by a third party. The facts were as follows: A firm of Starkey, Leveson & Cooke, carrying on business as stock brokers, were employed by a solicitor, purporting to act for himself and plaintiff, to obtain from the Bank of England a form of power of attorney to transfer stock standing in the name of the solicitor and the plaintiff. The stock brokers procured the form in favour of two of the members of the firm, which was sent to the solicitor, who returned it to them, purporting to be executed by the solicitor and plaintiff. It subsequently turned out that the solicitor had forged the plaintiff's name. Acting under the power one of the members of the firm of stock brokers, without notice of the forgery, made the transfer of the stock received the proceeds, and paid them to the solicitor, who misappropriated them. The present action was brought to compel the Bank of England to replace the stock, and the Bank claimed relief over against the the firm of stock brokers, on an implied warranty by them of the genuineness of the power under which the transfer was made. Kekewich, J., gave judgment in favour of the plaintiff against the Bank, but as to the third party claim, he held that only the member of the firm of brokers, who had actually acted under the forged power, was liable to indemnify the Bank, and that his action did not render the other members of the firm liable, the principle of law applicable being that laid down by Lindley, L.J., in *Firbank's executors v. Humphrey*, 18 Q.B.D. 54, viz, where an agent assumes an authority which he does not possess, and induces another to deal with him on the faith that he has an authority which he assumes, he is liable for the damage which may arise from his not having in fact such authority, which is an exception to the rule that an action