

REVIEW OF CURRENT ENGLISH CASES.

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WILL—CONSTRUCTION—GIFT OF CAPITAL AND ACCUMULATIONS OF INCOME AT TWENTY-SIX—GIFT WHETHER VESTED OR CONTINGENT.

In re Nunburnholme, Wilson v. Nunburnholme (1911) 2 Ch. 510. The question in this case was whether a legacy was vested or contingent. By the will in question the testator bequeathed certain shares in a company to trustees upon trust out of the income thereof to pay the testator's son £3,000 per annum until he should attain twenty-six, and as soon as he should attain that age to hold the shares and the accumulations of interest upon trust for his son absolutely. There was no gift over. The son survived the testator, but died at the age of twenty-three. In these circumstances Neville, J., held that the gift was vested, as it was intended, as a whole, to be solely for the son's benefit. He approved the dictum of Wood, V.-C., in *Pearson v. Dolman* (1866), L.R. 3 Eq. 315, 321, and distinguished the case from *Vandry v. Geddes* (1830), 1 Russ. & My. 203, where a gift to a class was in question.

EXECUTOR—TESTATOR'S LEASEHOLDS—ASSIGNMENT BY EXECUTOR TO A "PURCHASER"—PAYMENT TO ASSIGNEE TO TAKE ASSIGNMENT—COVENANT BY ASSIGNEE TO INDEMNIFY—LAW OF PROPERTY AMENDMENT ACT, 1859 (22-23 VICT. C. 35) s. 27—1 GEO. V. C. 26, s. 53 (ONT.)).

In re Lawley, Jackson v. Leighton (1911), 2 Ch. 530, Eady, J., following *Dodson v. Sammell* (1861), 1 Dr. & Sm. 575, 579, and other cases, determined that where an executor pays a person to take an assignment of a leasehold belonging to his testator's estate, and give a covenant of indemnity against the covenants in the lease, such an assignee is not a "purchaser" within the meaning of 22-23 Vict. c. 35, s. 27 (1 Geo. V. c. 26, s. 53 (Ont.)), so as to enable the executor to distribute his testator's estate without making provision thereout to meet future liabilities under the lease. According to the learned judge's ruling a "purchaser" in that section means a person who buys a lease and pays a price in money for it.