

granted the defendants' application for a stay of proceedings on his counsel undertaking that the defendant would submit himself in all respects to the jurisdiction of the Leipsig court.

WILL—CONSTRUCTION—GIFT TO NEPHEWS AND NIECES—SUBSTITUTIONARY GIFT TO CHILDREN OF ANY NEPHEW OR NIECE "WHO SHALL DIE IN MY LIFETIME"—NIECE DEAD AT DATE OF WILL LEAVING CHILD.

*In re Metcalfe, Metcalfe v. Earle* (1909) 1 Ch. 424. In this case a testator had given his residuary estate to such of his nephews and nieces, "as shall be living at my decease and have attained or shall attain 21 years," equally, if more than one, "provided always that if any of my nephews and nieces shall die in my lifetime leaving a child or children who shall survive me and attain the age of 21 years then and in every such case the last mentioned child or children shall take (if more than one, equally) the share which his, her or their parents would have taken in any residuary estate if such parents had survived me and attained 21 years." A niece of the testator was dead at the date of the will, having left children who survived the testator and attained 21 years. Joyce, J., held that such children were entitled to share in the residue, notwithstanding their parent was dead at the date of the will.

WATERCOURSE—ARTIFICIAL CHANNEL—MILL STREAM—RIPARIAN PROPRIETORS—TITLE TO BED OF STREAM—PRESUMPTION—TRESPASS—INJUNCTION.

*Whitmores v. Stanford* (1909) 1 Ch. 427 was an action to restrain defendants from interfering with the plaintiffs' rights in a mill stream. The stream in question flowed in an artificial channel through the land of the plaintiffs. There was no evidence as to how it originated but for more than 250 years it had been in existence and the plaintiffs and their predecessors in title had used the waters for the purposes of a tannery on their premises situate on either side of the stream, and the defendants and their predecessors had used the waters for a corn mill lower down the stream. The defendants had control of a weir by which the principal part of the water was admitted to the stream and they had been accustomed from time to time to scour the bed of the channel and had lately removed pipes and other devices which the plaintiffs had placed in the bed of the stream where it passed