

WILL—CONSTRUCTION—DIRECTION TO PAY DEBTS OUT OF RENTS, DIVIDENDS AND ANNUAL PROCEEDS, WHETHER IT AUTHORIZES PAYMENT OUT OF CORPUS—LEGACY, GENERAL, OR SPECIFIC.

In re Green, Baldock v. Green, 40 Chy.D. 610, two questions arose upon the construction of a will, whereby the testator had bequeathed to his wife, subject to the payment of his debts, all the cash in his house, and directed that in case such money should be insufficient the deficiency should be paid out of the rents, dividends and annual proceeds of all his estate. He also specifically bequeathed property to his wife for life, and appointed her his executrix. She paid the debts in part out of the corpus. The first question was whether the will authorized payment of the debts out of the corpus: and if not, whether the executrix could be compelled to recoup the corpus out of the income of her specifically bequeathed property. Stirling, J., held that the words "rents, dividends, and annual proceeds" meant the "annual rents, dividends, and proceeds," and did not authorize payment out of the corpus; but as the debts had, in fact, been partially paid out of the corpus, and the testator had not provided for such an event, the executrix could not be required to recoup the corpus out of the income of the property specifically bequeathed to her; because, notwithstanding the provision of the will, the creditors themselves had a right to resort to the corpus for payment. The other question was this: the testator bequeathed a public house in trust for sale, and out of the proceeds of such sale, and the rents and profits until sale, he gave a legacy to Elizabeth Dovey, and as to the residue of such proceeds, and rents, and profits, and all other, the residue of his real and personal estate, he gave the same to her two daughters; and the question was whether the gift of the residue of the public house was general or specific. The Court held it was not specific, but that the residue formed part of the residuary estate of the testator.

TRADE MARK—INFRINGEMENT—INJUNCTION.

The only other case in the Chancery Division which remains to be noticed is *Jay v. Ladler*, 40 Chy.D. 649, which was an action to restrain the infringement of the plaintiff's trade mark. The plaintiff carried on business as a furrier, under the name of the "International Fur Store," and used as a trade mark for his goods a picture of a lady and a bear. This device he had used as to all his goods, but had registered it as applied to mantles and coats. The defendant had sent out a circular to his customers on which was also the picture of a lady and a bear. This, Kekewich, J., held to be equivalent to advertising his goods as those of the plaintiff, and though it was not proved that any one was actually deceived, an injunction was granted restraining the defendant from using the mark, it being held that, independent of registration, the plaintiff had a common law right to the mark, which was not derogated from by its registration as applicable to a part only of the goods sold by him.

LESSOR AND LESSEE—RESTRICTIVE COVENANT—REPRESENTATIONS.

Turning now to the Appeal Cases the first to be noticed is *Spicer v. Martin*, 14 App. Cas. 12, which we noted when before the Court of Appeal (see *ante* vol.