

courts still maintain it to some extent, and the tide of authority drifting away from the artificial reasoning resorted to by some courts in their endeavour to sustain a doctrine, which though undoubtedly humane in its results, frequently works greater hardships in its operation and application.—*Central Law Journal*.

WILL DISCOVERED AFTER SALE BY ADMINISTRATOR

The case of *Hewson v. Shelley*, which for three and a half days occupied the attention of Mr. Justice Astbury, is one of extraordinary interest for conveyancers. The owner of certain freehold property named Barley Wood was supposed to have died intestate, and his widow took out letters of administration to him. The debts, duties, and funeral and testamentary expenses having been all paid, the administratrix, under the Land Transfer Act 1897, sold Barley Wood. Part of the proceeds was invested so as to form a fund to answer the widow's dower, and the remainder was divided between three co-heiresses. On the death of the widow, a will of the supposed intestate was found, more than twelve years after his death, but less than twelve years after the sale. This will gave all the testator's property to his widow for life, and after her death gave Barley Wood to G. The executors named in the will were the widow, G., and another. It is elementary law that executors derive their title from the will and not from the probate. Consequently Barley Wood vested in the executors at the death of the supposed intestate, and they, after the letters had been revoked and probate granted, took proceedings against the purchaser on the ground that he had bought the property from a person who had no right to sell it to him. One of the most recent authorities on the subject is the case of *Ellis v. Ellis* (92 L. T. Rep. 727; (1905) 1 Ch. 613), where Mr. Justice Warrington expressed himself thus: "Unfortunately for the plaintiffs there was in existence a will by which an executor was appointed; that will was duly proved, and the administration was revoked. Under those circumstances, I think it is clear law that the grant of administration is wholly void, and that, speaking generally, dispositions of the assets by the supposed