purchase money $50 more than the half interest was worth, on the understanding that B. was to keep and take care of the mare for a year, when A. was to have her, and her expenses were thereafter to be shared equally between them. The bargain was that they were to keep her for breeding purposes and share the profits equally.

During the year that B. was to keep her, she was seized and sold by the sheriff under an execution against B., but notice of A.'s claim was given to the sheriff and publicly at the sale. Subsequently the mare had a colt which was *in gremio* at the time of the sale.

In an action by A. against C., the purchaser at the sheriff's sale, in which C. contended that the Bills of Sale Act, R. S. O. c. 119, avoided the plaintiff's title as against the execution it was

Held, that the Act was intended to apply to personal chattels susceptible of specific ascertainment and of accurate description, and capable of being transferred and possessed *in specie*, and did not apply to an indivisible chattels like that in the present case. That A. and B. were tenants in common of the mare; that B.'s possession of the mare was not his sole or exclusive possession, but the possession of both; that the sheriff's sale passed only B.'s interest in the mare, and C., by his purchase, became a co-owner with A.; that the property in the colt followed that of its dam, and that A. was an owner of an undivided moiety in both.

Moss, Q.C., for plaintiff.

Cassels, Q.C., and *Fletcher*, for defendant.

Proudfoot, J.] [May 14.

HAMMILL v. HAMMILL.

Will—Construction—"Effects."

A testatrix, by her will, after giving to her two sons a certain mortgage, and after sundry other specific bequests continued as follows:—

"I further direct that the balance of personal property consisting of notes and other securities for money, be given to the children of my two sons aforesaid, that is to say, one-half of that amount to be given to the children of my son T. H., and the remaining half to the children of my son S. H., aforesaid; also, that if there be any other effects possessed by me at the time of my decease, that the same be divided equally in value among my grandchildren, share and share alike."

The testatrix had no real estate at the date of the will, but she afterwards in her lifetime collected the money due on the mortgage, and invested it and other funds in the purchase of certain lands which were conveyed to her by deed on May 31st, 1880. She died on August 31st, 1883.

Held, that the grandchildren were entitled to the lands and personal estate of which the testatrix died seized and possessed, not specifically bequeathed.

It appeared clear that the testatrix did not mean to die intestate as to any part of her property. The clause directing the disposition of her personal property, consisting of notes and other securities for money, appeared to be distinct from that as to her other effects. Each is complete in itself. In one the grandchildren take *per stirpes*, in the other *per capita*; and, therefore, the word "personal" must not be read as necessarily connected with "effects," and the cases show that the word "effects" is wide enough to carry the real estate.

PRACTICE.

Boyd, C.] [Dec. 31, 1883.

ROBSON v. ROBSON.

Partition—Incumbrances—Inquiry as to.

The usual order in Chambers for partition or sale under Chy. G. O. 640, was pronounced on 15th May, 1882.

The Master reported on the 21st March that part of the lands had been sold on the 17th November, 1882, and that there were no incumbrances on the whole or any of the shares.

Upon petition by the purchaser for a reference back to the Master to take further accounts and inquire as to incumbrances.

Held, that the Master should ascertain and report what incumbrances affect the property down to the time of the sale, and not merely at the time when the order in Chambers was pronounced.

Report referred back to the Master.

Meek, for the petitioner.

Bigelow, for the plaintiff.
