

reasonable time had elapsed, if not before the 28th November, 1889, at all events before the 19th January, 1890.

TRADE MARK—REGISTRATION FOR ENTIRE CLASS OF MERCHANDISE—USER OF TRADE MARK FOR PART OF CLASS—INFRINGEMENT OF TRADE MARK—INTERLOCUTORY INJUNCTION—FRAUD CHARGED BUT NOT ESTABLISHED—COSTS.

*Hargreave v. Freeman* (1891), 3 Ch. 39, was an application to Chitty, J., for an interlocutory injunction to restrain the alleged infringement of the plaintiff's trade mark. The trade mark which *inter alia* consisted of a shield with three crowns, and the word "mixture" underneath, was registered for "tobacco, whether manufactured or unmanufactured." Since registration it had only been used by the plaintiff on packages containing cut tobacco; but he had also used the device of the shield and three crowns on boxes of cigars. The defendants, who were cigar manufacturers, used a label on which was also a shield and three crowns, and which the plaintiff claimed to be an infringement of his trade mark; but Chitty, J., held that the registration of the trade mark for an entire class of goods, followed by a user on one description of goods only, did not give an exclusive right to the use of the trade mark for all descriptions of goods in that class, and he therefore refused the injunction. He refused to give the defendants costs because they had set up a charge of fraud against the plaintiff which had failed.

WILL—LEGACY TO WIFE—INSUFFICIENT ESTATE—ABATEMENT OF LEGACIES.

*In re Schweder, Oppenheim v. Schweder* (1891), 3 Ch. 44, the question was raised whether where a testator has bequeathed a legacy to his wife for her present requirements, and directed it to be paid within three months of his decease, such a legacy, in the event of a deficiency of assets, is liable to abate with other legacies. Malins, V.C., *In re Hardy*, 17 Ch.D. 798, had decided the question in the negative, in opposition to the view expressed by Lord Hardwicke in *Blower v. Morrett*, 2 Ves. Sr. 420, which, however, Chitty, J., considered he was bound to follow.

WILL—CONSTRUCTION—GIFT TO CHILDREN AND ISSUE OF DECEASED CHILDREN—"SHARE AND SHARE ALIKE"—JOINT TENANCY OR TENANCY IN COMMON.

*In re Yates, Bostock v. D'Eyncourt* (1891), 5 Ch. 53, is a decision of North, J., upon the construction of a will, whereby a testator devised real estate to trustees in fee upon certain trusts for his sons and daughters and the survivor of them; and from and after the death of the survivor, or during the lives of all or any, with their concurrence upon trust to sell the property, and to stand possessed of the proceeds "upon trust for all and every of my said sons and daughters who shall be then living, and the issue of any then dead (such issue standing *in loco parentis*), share and share alike." The question was, what was the nature of the estate which was thus conferred? North, J., decided that the sons and daughters and the issue of any deceased son or daughter took as tenants in common, but that for wants of words of severance the issue of any deceased son or daughter took their share *inter se* as joint tenants.