

the sale actually took place, but by inadvertence the original date, although altered in the particulars, remained in the conditions and form of contract. The contract had been signed by the auctioneer on behalf of the purchaser, who had refused to sign it. Under these circumstances the Court of Appeal held that there was no contract because the auctioneer had no authority to execute a contract of a sale under date of 17th October, the date being material because it regulated the time of completion and the erroneous date rendered the contract impossible of performance.

WILL—CONSTRUCTION—GIFT OF RESIDUE TO INDIVIDUALS IN SHARES—GIFT OF INCOME FOR MAINTENANCE OF ALL—VESTED OR CONTINGENT.

In re Gosling, Gosling v. Elcock, (1903) 1 Ch. 448. The decision of Eady, J., (1902) 1 Ch. 945 (noted ante vol. 38, p. 672) was reversed by the Court of Appeal (Collins, M.R., and Romer, and Cozens-Hardy, L.JJ.). The case turns on the construction of a will whereby a gift was made of residuary estate in equal shares to the testator's two children on their severally attaining 21, the income "during their respective minorities" to be applied towards their maintenance. Eady, J., thought that as the income was to be applied for the maintenance of both legatees that prevented the gift of the shares from vesting until the legatees attained 21. The Court of Appeal, however, ruled that upon the proper construction of the will, the income of each share was to be separately applied for the maintenance of the child entitled to that share, and therefore, according to the well settled rule in such cases, the legacies were vested and not contingent.

CONTRACT—MISTAKE—SALE OF LIFE POLICY—DEATH OF ASSURED BEFORE SALE OF POLICY—RESCISSION AFTER COMPLETION.

Scott v. Coulson, (1903) 1 Ch. 453, was a very simple case. The plaintiff being entitled to a policy of insurance on the life of a Mr. Death in ignorance that Death was dead, contracted to sell the policy to the defendant, who was also ignorant of Death's death. The contract was completed by the assignment of the policy on the life of Death before the death of Death was known to either party. Upon that important fact being discovered this action was instituted to rescind the contract on the ground of mutual mistake as to a material fact, and Kekewich, J., gave judgment in favour of the plaintiff.