

EQUITABLE WASTE — ORNAMENTAL TIMBER — "PLANTED OR LEFT FOR ORNAMENT OR SHADE" — EVIDENCE — PRESUMPTION — INJUNCTION.

Weld-Bhucdell v. Wolseley (1903) 2 Ch. 664, was an action to restrain equitable waste by the committee of a lunatic's estate. The plaintiff was tenant in remainder and claimed that certain timber trees which the committee proposed to sell had been planted or left for ornament or shade. A case was stated by a referee as to whether the plaintiff had made a prima facie case, and Eady, J., ruled that he had, and that in such cases the question is not whether the trees in question were ornamental, or useful for shelter, but whether they were in fact planted or left for those or either of those objects.

CO-SURETIES — INSURANCE OF MORTGAGE DEBT — COVENANT TO PAY WITH LIMIT OF LIABILITY — CONTRIBUTION.

In re Denton, License Insurance Corporation v. Denton (1903) 2 Ch. 670. The plaintiffs in this case had insured a mortgage debt secured by a mortgage made by one Hannay for £4,000 in which one Denton had joined as surety; by the mortgage Hannay and Denton jointly covenanted to pay the whole mortgage debt, but subject to a proviso that Denton's liability should be limited to £1,000. The mortgage also contained a covenant by Hannay alone to insure and keep insured the mortgage debt with the plaintiff company, and the plaintiffs had issued a document purporting to be a policy insuring the payment of the whole amount of the mortgage debt, and agreed that if the mortgagor made default the plaintiffs would pay, and that thereupon the mortgagees should assign the mortgage debt and all securities to the plaintiffs, and do all things necessary for the purpose of enforcing any rights or remedies or of obtaining relief or indemnity from other parties, to which the plaintiffs should be subrogated on payment under the policy. The mortgagor made default and the plaintiffs had paid the debt, which with interest, etc., amounted to £5,000. The mortgaged property had been realized and had produced £4,000, leaving a deficiency of £1,000, the whole of which the plaintiffs claimed to recover from Denton's estate, he having died. It was contended by the plaintiffs that they were insurers and not sureties, and at all events not co-sureties with Denton because their contract was subsequent and independent of the mortgage. Eady, J., was inclined to think the plaintiffs were merely sureties notwithstand-