

me under my said father's will, and all other I may be entitled to, both real, personal and mixed, shall be divided between my three children." The testatrix had no estate of her own.

*Held*, that the will operated as an exercise of the power; the direction to pay the testatrix's debts out of her estate being but one circumstance to be considered in determining what her intention was.

*C. N. Skinner, Q.C.*, and *A. I. Trueman*, for parties interested.

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In Equity. Barker, J.] *ATKINSON v. BOURGEOIS.* [April 18.

*Debtor and creditor—Fraudulent conveyance—13 Eliz., c. 5.*

An insolvent debtor being in expectation that his property would be seized under execution, conveyed to his father, who had a knowledge of his son's insolvency, land previously conveyed by the father to the son in consideration, but not expressed in the conveyance, of the son's bond to support him and his wife for their lives. After the conveyance to the father he conveyed the land to the son's wife in consideration of her paying off a mortgage upon the land, and agreeing to support the father and his wife.

*Held*, that the conveyance from the son to the father having been made in good faith and for valuable consideration, and not for the purpose of retaining a benefit to the son, was good within the statute 13 Elizabeth, c. 5, though made for the purpose of preferring the father as against other creditors.

*W. B. Chandler*, for plaintiff. *A. A. Stockton, Q.C.*, for defendant.

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In Equity. Barker, J.] *SCHOFIELD v. VASSIE.* [April 18.

*Will—Construction—Gift of income to trustees for maintenance and education of children—Income payable to father.*

A testator by his will gave his estate to trustees in trust to pay over the net income to the support, maintenance and education of the children of his son until the youngest should attain the age of 21 years. Two of the children were of age and the others were minors. The father was able to support maintain and educate the children.

*Held*, that so much of the income as would be necessary should be paid to the father while he was under an obligation to support, maintain and educate them, and did so.

*A. I. Trueman*, for trustee under the will. *A. O. Earle, Q.C.*, and *H. H. Pickett*, for father.