

BEQUEST TO A CHARITABLE INSTITUTION.—“DULCE EST DESIPERE, &c.”

would become a meaningless thing, of small benefit to either.

BEQUEST TO A CHARITABLE INSTITUTION.

For the first time since the Reformation the effect of a bequest and devise to a sisterhood of nuns, in England, has been determined by *V. C. Wickens*, in *Cocks v. Manners*. This Judge manifested how fitly he is characterized as the English lawyer who knows most about the law relating to charities, by delivering his judgment of unquestioned soundness at the close of the argument. One object of the testator's bounty was “the community of the Sisters of the Charity of St. Paul, at Selley Oak,” who appeared to be a voluntary association for the purpose of teaching the ignorant and nursing the sick. As to these, it was held that they were a charitable institution, and that, consequently, the devise of lands failed, though the bequest of pure personalty was valid. There was also a devise to the Dominican Convent, at Carrisbrooke, which it was shewn was an institution consisting of Roman Catholic nuns, who had associated themselves together for the purpose of working out their own salvation, by religious exercises and self-denial, not visiting the sick or relieving the poor, except casually or accidentally. The Vice-Chancellor was of opinion that such a society was not charitable, and not within the meaning of the act, so that the devise to them, of £6,000 value, was upheld. The curious issue of the law on this case is very strikingly brought out in the language of the *Law Journal*, as follows:—

“The one institution, on its own showing, does not visit the poor, or teach the young, or engage in any of the works of charity or mercy; and because it abstains from doing these good deeds, it is allowed to become the recipient of £6,000. The other institution has to be content with £100 because its members employ themselves in teaching the children of the poor and in nursing the sick. Mr. Bagshaw, in his argument, well compared the two institutions to ‘Mary’ and ‘Martha’ of Scripture history—the one ‘active,’ the other ‘passive’—the one ‘practical,’ the other ‘contemplative.’ May we not carry the illustration further? As it was of old, so now, the ‘passive and contemplative’ convent of Dominican nuns seem to have chosen the good part, which the law will not take away from them.”

“DULCE EST DESIPERE, &c.”

It is strange how “good things” repeat themselves. These, also, would appear to fall under Solomon's aphorism about “nothing new under the sun.” Mr. Justice Maule is credited with having had at his fingers' and tongue's end the whole cycle of professional *ana* that periodically re-appears in the published collections. It is told of him, that once upon a circuit his postchaise companion had picked up at a bookstall a collection of anecdotes, supposed to contain an unusual admixture of new material; but the learned Judge undertook to give the point of any story in it, on hearing two lines of it read, and really fulfilled his boast without a single failure.

But the particular “good thing” which has induced this moralizing occurred on this wise: In a case heard at the present Chancery sittings in Toronto, there was put in the witness box a gentleman of high standing in the community, though, like the worthy Zaccheus, little of stature. As he stood in the box, however, after being sworn, with arms stretched along the top, and shoulders and head just visible, he presented to the Chancellor's observant eye, as it first fell upon him, very much the appearance of some awkward fellow squeezed into a sitting position as comfortably as the straitness of the enclosure would allow; whereupon his Lordship admonished the witness to stand up and give his evidence properly. “But I *am* standing up, my lord,” said the witness, with such solemnity as truth, spoken under oath, could alone give. An explanation of the true condition of affairs was then made *sotto voce* to the court, and the examination proceeded.

A counterpart to this is the story told of a diminutive barrister, *temp.* Lord Mansfield, named Morgan, who was so addicted to the citation of *Croke's Reports* that he won for himself the soubriquet of “Frog” Morgan,—to which probably his squat figure gave additional point. Before he was much known at the bar, he was beginning to open a case, when Lord Mansfield, in a tone of grave rebuke, addressed him: “Sir, it is usual for counsel, when they address the court, to stand up.” “I *am* standing, my lord,” screamed “The Frog,” “I have been standing these five minutes.”