

public by publishing what is complained of. If that is the meaning, it is embarrassing. If that is not its meaning, the latter part of the paragraph is embarrassing in not being so framed as to shew clearly what defendant intends to rely upon. Appeal dismissed. Costs in cause to plaintiff.

OCTOBER 15TH, 1902.

DIVISIONAL COURT.

RE SCADDING.

Will—Legacy—Interest on — Legatee Attaining Majority — Death of Widow—Mixed Fund.

Appeal by executors from order of MACMAHON, J., in Chambers (ante 467), declaring that executors should pay out of the estate interest upon legacies from the dates of the legatees attaining majority.

The appeal was heard by BOYD, C., STREET, J., MEREDITH, J.

C. A. Masten, for executors.

W. Bell, Hamilton, for legatees.

BOYD, C.:—The scheme of the will is to create a trust fund of the whole estate, real and personal, to be held by the trustees and executors to pay first of all an annuity of \$800, and then to pay all the balance of the income to the widow for life, and on her death to divide the corpus: to the two grandchildren \$1,000 each, and then an equal division among the testator's children. The bequest of these two legacies is declared to be subject to the widow's life interest; the legacies are to be paid when the grandchildren attain 21, but in case the estate is divided (i.e., upon the death of the widow) before they attain 21, then interest is to be paid on the legacies; if the grandchildren die before attaining 21, the legacy falls into the estate. The meaning of this clause is, that the legacies are made contingent upon the beneficiaries coming of age, when they become vested, but the time of payment is postponed till the widow dies. They have attained 21, and the widow did not die till some years thereafter. The payment of interest on legacies depends upon certain rules which are modified by the intentions of the testator, as expressly or impliedly declared by the language of the will. This will is not silent as to interest; it contemplates and provides for the payment of interest on the legacies after the time fixed for dividing the estate, if the legatees are not then of age. That indicates that interest is not meant to be given before the time arrives for dividing the estate. It is a general rule