

WILL—CONSTRUCTION—REALTY AND PERSONALTY—LEGACIES CHARGED ON LAND
—PRIMARY LIABILITY OF PERSONALTY FOR PAYMENT OF LEGACIES—MIXED
FUND.

In re Boards, Knight v. Knight, (1895) 1 Ch. 499; 13 R. March 180, North, J., held that, where a testator bequeaths legacies, and then bequeaths the residue of his real and personal estate, the legacies are thereby charged on the real estate, or its proceeds, but they are still primarily payable out of the personal estate unless the testator expressly directs them to be paid out of the mixed fund, in which case they are paid ratably out of the realty and personalty; and he held that the dictum of Sir George Jessel, in *Gainsford v. Dunn*, 17 Eq. 405, to the effect that, without any such direction, the legacies would be payable ratably, is inconsistent with the decision of the Court of Appeals in *Elliott v. Dearsley*, 16 Ch.D. 322. It may be noted that, although R.S.O., c. 108, s. 4, provides that undisposed-of realty is to be distributed as personalty, and s. 7 that real and personal property comprised in any residuary devise or bequest shall, except so far as a contrary intention shall appear by the will, be applicable ratably, according to their respective values, in payment of debts, it says nothing with regard to legacies; and it is, therefore, probable that this case would be applicable to the administration of an estate under R.S.O., c. 108, and that, even under that Act, the personalty is still, *prima facie*, the primary fund for the payment of legacies.

HUSBAND AND WIFE—POST-NUPTIAL SETTLEMENT—WIFE, PURCHASER IN GOOD FAITH FOR VALUE—MARRIED WOMEN'S PROPERTY ACT, 1882 (45 & 46 VICT., c. 75), s. 3—(R.S.O., c. 132).

Mackintosh v. Pogose, (1895) 1 Ch. 505; 13 R. March 158, although a case arising in bankruptcy, is one that covers some interesting questions arising under the Married Women's Property Act. The facts were that a married woman, married in 1883, being then possessed of separate property, after the marriage allowed it to pass into her husband's hands, but not as a gift, nor as a loan for the purposes of his trade or business. The husband, having applied part of it to his own use, subsequently settled the residue, together with other property of his own, upon trusts under which he took a life interest, subject to a proviso for the cesser thereof in the event of his becoming bankrupt. The wife had no notice of any fraud or fraudulent intention on