in aid of the personal estate, but not in relief of its primary liability, except as regards any specifically bequeathed, of which there is none. See cases collected at p. 728 of Theobald on Wills, 5th ed.; also Irvin v. Ironmonger, 2 Russ. & My. 531.

Mr. Heggie argued that the bequest, embracing as it does all the testator's personal property, is in its nature residuary, and that, as there is also a residuary devise of land, sec. 7 of the Devolution of Estates Act applies, and that the debts should be borne by the personalty and residuary estate ratably.

Section 7 reads as follows: "The real and personal property of a deceased person comprised in any residuary devise or bequest shall (except so far as a contrary intention shall appear from his will or any codicil thereto) be applicable ratably, according to the respective values, to the payment of his debts."

In the first place, I think it quite clear that this section does not apply where there is not *both* real and personal property comprised in a residuary gift.

The term "residuary bequest" implies that something has been taken out of the personal estate by the testator, and that the bequest applies only to a balance as distinguished from the whole. See Stroud's Jud. Dict., tit. "Residue."

The bequest here not being residuary in the ordinary sense, the Act does not apply to this will. The lands comprised in the specific residuary devise must bear proportionally the burden of paying any balance of debts after the personal estate is exhausted.

The charge created by the will affects all the testator's lands, and Lancefield v. Iggulden, L. R. 10 Ch. 136, establishes that specific and residuary devises of land are on the same footing in regard to liability to pay debts. See also Jarman, 5th ed., p. 1431.

At testator's death he was in possession of a threshing machine and engine under the usual conditional sales agreement, subject to liens for unpaid purchase money, and on behalf of the legatee of the personal property it was argued that he was entitled to these articles freed from the liens. I understand that the total balance of the personal property is less than the debts, so that this question is not material, but, if it were, I think it clear that, as the gift is in no sense a specific legacy (see Bothamley v. Sherson, L. R. 20 Eq.