

declared (s. 4) that, so far as the said property (*i.e.*, land devolving on the personal representative) is not disposed of by deed, will, contract, or other effectual disposition, the same shall be *distributed* as personal property not so disposed of is hereafter to be distributed, and (s. 9) that, subject as thereinbefore provided, the legal personal representative from time to time of a deceased person shall have power to *dispose of and otherwise deal with* all real property vested in them by virtue of the preceding sections of the Act with all the incidents, but subject to all the like rights, equities, and obligations, *as if the same were personal property* vested in them. Still, it was considered that the personal representative had no power to sell lands so vested in him for the purpose of making a division among the beneficiaries. See *Re Mallandine*, per Boyd, C., June 30, 1890.

In order to remove the doubt raised by *Re Mallandine*, *supra*, 54 Vict., c. 18, was passed, and by s. 2 of that Act it was made plain that the personal representative was to have power to sell the land not only for the payment of debts, but also for the purpose of division among the beneficiaries.

The result of this change in the law has been to put an end in a large measure to suits for administration and partition. In all simple cases machinery now exists for enabling an estate to be administered and wound up and distributed amongst the parties entitled without incurring the heavy expense and delay which formerly attended such proceedings. So far an enormous gain has been effected to the public, perhaps at some little loss to the legal profession.

But the beneficial effect of the Act bids fair to be very seriously imperilled by other amendments which have been made thereto by 54 Vict., c. 18, and 56 Vict., c. 20.

These amendments have reintroduced the old vicious principles which it was the very object of The Devolution of Estates Act to abolish, and have enabled the heir and devisee again, in certain circumstances, to take immediately from the deceased, without the intervention of the personal representative. It appears to us very like "a dog returning to its vomit" for the Legislature, after having once solemnly determined to bring the law of succession to real estate into harmony with that relating to personalty, to again deliberately create an anomalous and peculiar variation in the case of the succession to realty; and in such a way, as we shall proceed to show, as to jeopardize titles