

deceased husband's estate was liable, and to what extent, for arrears of alimony payable to his wife under an order made by the Divorce Court under the Matrimonial Causes Act 1857 (20-21 Vict. c. 85), s. 17. It was contended that such an order does not constitute the alimony a debt, because the order is subject to variation by the Court: that it is not proveable as against the husband's estate if insolvent and therefore cannot be proved against his estate if solvent; but Sargant, J., held that the claim constituted a liability against the estate and he ordered it to be paid but not exceeding one year's arrears.

ADMINISTRATION—DEFICIENCY OF PERSONALITY TO PAY DEBTS

—PAYMENT OF DEBTS BY EXECUTRIX OUT OF HER OWN MONEY

—RECOUPMENT OUT OF TESTATOR'S REALTY—REAL PROPERTY LIMITATION ACT 1874 (37-38 VICT. c. 57) ss. 8, 10—(R.S.O. c. 75, s. 24, 25).

In re Welch Mitchell v. Willders (1916) 1 Ch. 375. In this case the sole executrix of a testator who died in 1885 paid certain debts of her testator, which the personal estate was insufficient to pay, out of her own money. Part of his realty was devised to the executrix for life and after her death to trustees for sale; and part of it was devised to trustees for sale. In the events which happened the executrix became sole trustee. She took no steps in her lifetime to obtain recoupment out of the realty and died in 1915. We do not notice that it is explicitly stated in the report when the debts were paid, but Sargant, J., in giving judgment, says that "she abstained for 30 years from taking proceedings" and that being the case, he held that her executor was now barred by the Statute of Limitations, ss. 8, 10 (see R.S.O. c. 75, ss. 24, 25) from recovering out of the realty.

FERRY—FRANCHISE—DISTURBANCE—CHANGE OF CIRCUMSTANCES
—NEW TRAFFIC—DECLARATORY JUDGMENT.

Hammerton v. Dysart (1916) A.C. 57. This was an appeal from the Court of Appeal in the case of *Dysart v. Hammerton* (1914) 1 Ch. 822 (noted ante vo. 50, p. 435). The action was brought to restrain the disturbance of plaintiff's ferry. Warrington, J., held that there had been no disturbance, but nevertheless made a declaration that the plaintiff was entitled to the ferry as claimed. The Court of Appeal held that there had been a disturbance, and held that if there had not been, it would not be right to make any declaration of right. The House of Lords