

participate therein jointly with the children of the first marriage. The case we may observe is one of first impression.

WILL—CONSTRUCTION—ILLEGITIMATE CHILD.

In re Smilier, Bedford v. Hughes (1903) 1 Ch. 198, the point to be solved was whether an illegitimate child was entitled to take under a gift to the issue of his father. The testator in a prior part of his will had given the proceeds of certain property upon trust for the children of his nephew George, "including among such children Samuel, the illegitimate son of my said nephew." The testator then gave the proceeds of certain other property upon trust for such of eight named nephews and nieces (including George) as should be living at the death of his niece Mary, and the issue living at the death of Mary of such of his other nephews and nieces as should die in her lifetime leaving issue. George predeceased Mary, leaving issue, one illegitimate son, namely Samuel; and the question was, therefore, whether Samuel was entitled to take under the latter disposition, and Kekewich, J., held that he was, at the same time admitting that the later decisions had departed somewhat from the strict rule originally laid down in such cases by Lord Eldon.

PRACTICE—DEBENTURE HOLDERS' ACTION—RIGHT OF PLAINTIFF TO STAY PROCEEDINGS AFTER JUDGMENT IN CLASS ACTION.

In re Alpha Co., Ward v. Alpha Co. (1903) 1 Ch. 203, was an action instituted by a debenture holder on behalf of himself and all other debenture holders of a limited company for payment of the debentures and appointment of a receiver. After judgment directing accounts, etc., the plaintiff's claim was satisfied and the defendant company moved to stay all proceedings, and the question was raised whether the rule which prevails in creditors' actions precluded the plaintiff from discontinuing the action after judgment. Kekewich, J., while admitting that the plaintiff could not after judgment deprive other debenture holders of the benefit of the judgment if they thought fit to prosecute it, yet considered that a debenture holder's action differs from an ordinary administration action, and that the plaintiff in such an action, even after judgment, if not required by any other debenture holder to go on with it, is at liberty to discontinue it. It must be confessed the reasoning of the learned Judge does not appear to be very