

GENERAL CORRESPONDENCE.

See COMMISSION; FRAUDS, STATUTE OF; NEGLIGENCE, 2; PRIVILEGED COMMUNICATIONS; WILL, 12.

EXECUTOR AND ADMINISTRATOR.

1. The deceased died intestate, leaving her husband surviving her, who did not take administration to her estate. The will of the husband was proved in Ireland, but no grant was made in England. The will of the sole executor of the husband was proved in Ireland, and resealed in England. *Held*, that the executor under the last-mentioned will was not entitled to administration of the goods of the deceased.—*Goods of Gaynor*, L. R. 1 P. & D. 723.

2. In the course of administration of an insufficient estate, there being a legacy, life-annuities, and an annuity to A. for life, with remainder to B. for life, before further consideration of the cause, A. and some other annuitants had died. *Held*, that in fixing the proportions in which the annuities were to abate, the value of B.'s annuity was the present value with arrears since A.'s death.—*Potts v. Smith*, L. R. 8 Eq. 683.

See APPORTIONMENT; CONTRACT, 1, 2; LEGACY, 1, 2; TRUST, 2.

—*American Law Review*.

GENERAL CORRESPONDENCE.

Clerk of the Peace—Fees—Adjourned Sessions.

TO THE EDITORS OF THE LAW JOURNAL.

GENTLEMEN,—At the first meeting of the "Board of Audit" for the County of Waterloo, held under the recent Act 33 Vic. cap. 8, of which Board the writer is a member, the Clerk of the Peace had in his account the following item, viz.: "To attending seven adjourned sessions and making up record of each at \$2.50=\$17.50," which caused considerable discussion and was finally allowed by a majority of votes, one member of the Board dissenting.

The Minute Book of the Court of General Sessions of the Peace for the County of Waterloo, kept by the Clerk of the Peace, shows that the Court held last December had been adjourned seven times before it rose, viz. :—

On the 14th day of December the Court met for the transaction of general business; during that day the Clerk of the Peace brought into Court the Jurors' Book under the 39th section of the U. C. Jurors' Act—

the Court after deciding as to a full Jury list found that the selecting of Jurors could not be proceeded with "immediately" as there were civil and criminal cases for trial which were supposed, and subsequently proved, to occupy the whole of the first day, and as there was certain business such as auditing of accounts and the reading of Certificates for Naturalization of Aliens, the former of which requiring to be commenced on the second day of the Sessions, the latter to be read a second time on the last day of the General Sitting of the Court—an adjournment took place in the evening until the following day, 15th December. On that 15th December the general business of the Session was completed, the Court commenced the selection of Jurors and again adjourned to the 16th December for the purpose of continuing the selection of Jurors. On the 16th December the Court again met in open Sessions pursuant to adjournment, sat all day and adjourned to the 17th December; it again met in open Session on the 17th December pursuant to adjournment, sat all day and adjourned to the 21st December; then again met in open Sessions pursuant to adjournment, and so on for three days more till the Court rose.

The question arose whether the Clerk of the Peace was entitled to a fee for adjourning a Court from day to day and making up record of each adjourned sittings.

One of the members of the Board of Audit held that the Clerk of the Peace was not entitled to any of said adjournment fees, holding that an adjournment mentioned in the Tariff of Fees did not mean one held from day to day; another member of that Board maintained the very opposite and expressed himself in favor of allowing the item of \$17.50 as charged by the officer, while the third Auditor entertained some doubts, but finally voted in favor of allowing the same; thus giving the individual the benefit of his doubt; and as this is considered a sound principle in Criminal Law, it is probably also sound in civil matters.

The Tariff of Fees for Clerks of the Peace, as framed by the Superior Court Judges in Trinity Term, 1862, has the following, under which the above-mentioned charge of \$17.50 is made, viz.: No. 66, "Attending EACH adjourned or special sessions and making up record thereof, \$2.50," to be paid out of the County funds to the Clerk of the Peace. The