

assured having attained 60 years the action was brought. Kekewich, J., held (1) that, as the misrepresentation had not been wilful, the defendants were not entitled to avoid the policy, and forfeit the premiums; (2) that when the mistake was discovered in 1897 they might have returned the premiums previously received, and refused to continue the policy; and (3) that by accepting the two premiums, after discovering the mistake, they must be taken to have elected to affirm the policy as still subsisting, and that therefore the plaintiff was entitled to recover.

WILL—CONSTRUCTION—POWER TO SELL—DEVISE OF "WHAT IS LEFT" AFTER DEATH OF A. TO TWO OF SEVERAL CO-HEIRS—LIFE ESTATE BY IMPLICATION.

In re Willatts, Willatts v. Artley (1905) 1 Ch. 378 is a decision of Farwell, J., on the construction of a will, concerning which it would not be surprising to find an appellate Court coming to a different conclusion. The testator appointed his wife sole executrix; he bequeathed his furniture to her absolutely, "and at my death the said Emma Willatts to have power to sell all property and land belonging to me, and at her death what is left to be divided between" my two daughters, the two daughters being two of his five co-heiresses. Farwell, J., decided that as the two daughters were some only of the testator's heirs, there was no implied life estate in favour of the widow, as there would have been had the gift over after her death been to all the testator's heirs; and that "what is left" meant "the net residue" after payment of debts, and costs of realization, as to which during the widow's life he held that there was an intestacy. As the learned judge admits, his decision probably fails to carry out the true intention of the testator which was doubtless, as he guesses, to give the widow power to apply the corpus to such an extent, as she required for her own benefit; it is possible that another Court may discover how the testator's probable intention may be effectuated consistently with what he actually said.

ADULTERY—CONDONATION—REVIVAL—HUSBAND AND WIFE.

In *Copsey v. Copsey* (1905) P. 94, a divorce case, it was held by Barnes, J., that desertion for two years without reasonable excuse revives condoned adultery.