

The change in procedure was not intended to make any change in the substantive rights of the parties; and, though no time limit was found in the Common Law Procedure Act, it was always held that the application to enter a suggestion or for a writ of revivor must be made within the statutory period: *Lovell v. Richardson* (1856), 2 Jur. N.S. 716; *Williams v. Welch* (1846), 3 D. & L. 565.

All this leads me to the conclusion that the present Rules relating to the issue of execution are subject to the statutory limitations, and that the obtaining of leave is a judicial act, and not a mere ministerial act, which may be done after the time limited.

The decision of the Chancellor in *Price v. Wade* (1891), 14 P.R. 351, that, apart from any statutory limitation, the judgment is presumed to be satisfied, is left untouched by the decision in *Poucher v. Wilkins*, and it, as well as *Farrell v. Gleeson* (1844), 11 Cl. & F. 702, justifies the view that the proceedings under the Rule are in effect more than a mere continuation of the former suit—for it must be remembered that the sci. fa. there mentioned was not an “original writ” but a judicial writ under the Statute of Westminster.

For these reasons the motion must be dismissed, and costs should follow.

MIDDLETON, J.

MARCH 29TH, 1915.

RE MORROW.

*Will—Construction—Gift to Children of Deceased Relatives—
Grandchildren and Stepchildren not Included—Intestacy.*

Motion by the executor of the will of John Morrow, deceased, for an order determining questions arising as to the construction of the will.

C. C. Ross, for the executor.

G. T. Walsh, for the children of a deceased brother.

J. Gilchrist, for the children of another deceased brother.

B. Williams, for Ruby Livingston.

J. Nason, for Fanny Williams.

MIDDLETON, J.:—The testator, who died on the 28th January, 1914, by will dated the 9th October, 1913, divided his es-