sisters Charlotte and Jennette, who have so long had the charge of my mother, and have so well learned how to secure her comforts should still continue to have care of her. As witness my hand this twenty-seventh day of June, 1864."

The testator died seized of real estate worth two or three thousand pounds, but mortgaged to nearly its full value, and personal estate worth about £40,000, which might be classed as follows: (1) The testator's shares in two businesses carried on by him in partnership, which, under provisions in the partnership deeds, were in each case to be taken by the surviving partner at a valuation and paid for by instalments, and which had been valued at £36,657 13s. 8d. respectively. (2) Certain leasehold premises valued at £268. (3) Furniture, &c., valued at £2,976 16s. (4) Shares in public companies valued at £65. (5) Cash at the bankers, £239 5s. 4d.; and (6) debts to the amount of £340.

It was admitted at the bar that the real estate could not pass by the will.

Ince, for the plaintiff, the executor.

Glasse, *Q. C.* (*Bird* with him), for the testator's widow.—Unless these is some explanatory context money means only cash, and money at the bankers: 1 Jarm. on Wills 3rd edit. p. 731. *Lowe* v. *Thomas*, 2 W. R. 499, 5 D. M. & G. 315 is in point. The value of the business is not money, though it will come to the testator's estate as money: *Manning* v. *Purcell*, 3 W. R. 273, 7 D. M. & G. 55.

W. Cooper, for the heir-at-law.

Cole, *Q. C.*, and *Sargant*, for the testator's children, were not called upon.

Malins, V. C., said the rule to be applied in interpreting the will was to ascertain the intention of the testator. The word money often meant money in the house, or at the bankers' only. If the testator gave his "ready money" or his "money" in such a manner as to distinguish it from his other property, money in the strict sense alone passed. Such was the case of *Manning* v. *Purcell*, where there was a residuary gift; and here, if there had been a residuary gift, money only would have passed. If the words were not restricted to mean the testator's money in the house and at the bankers only, they must be taken to mean his general personal property, and the question was between these two interpretations. Now it appeared the testator had very little money in the strict sense, and £40,000 worth of personal property. Under these circumstances, having a wife and six children to be provided for, he made a universal disposition of his property in these general words. [His Honour then read the will.]

By this will he intends to provide for his wife, and his children are to be educated out of the income. If he had said "estate," "property," or "effects," all his personal property would have passed, but he had used the words "principal money." What he meant was "principal" or "capital," and in using the word "money" he must have meant money or money's worth. The wife would therefore take the income of his whole personal estate, and after her death or second marriage it would go to his children.

The rule of this Court for a very long time had been that money might mean general property, or money in the strict sense of the word, and the only case against it was *Lowe* v. *Thomas*, which, in some respects, looked very much in Mr. Glasse's favor. He must confess he could not understand that case, and he should himself have considered that the words there carried the general estate, though he was, of course, bound to follow the decision. But in that case other property, as distinct from money, was given, and here the gift was a general disposition unaccompanied by any other gift.

As to the real estate, he thought the testator meant to include that also, but the Court always favoured the heir, and there were no words applicable to real estate. The same favour was not shown to the next of kin as to leaseholds, and he therefore decided, though not with so much confidence as he did with respect to the other personal estate, that the leaseholds also passed by the will.

Seaton v. Twyford.

Mortgagor and mortgagee—Principal not to be called in for a term—Default in payment of interest—Execution not stayed.

Where default having been made in payment of interest, a mortgagee has recovered judgment for the amount of the principal and interest, and a bill is filed to restrain execution and for specific performance, on the ground that the mortgage deed is not in accordance with the terms of a previous agreement, which provided that the principal should not be called in for a term still unexpired, an injunction will be refused except on the terms of the amount recovered being paid into court, since, if a clause in accordance with that provision in the agreement had been inserted in the deed, it would, as a matter of course, have made the not calling in of the principal conditional on the punctual payment of interest.

[19 W. R. 200.]

This was a motion to restrain the defendant Simson from proceeding to issue execution under a judgment recovered by him under the following circumstances:—

At the date of the agreement hereafter mentioned, the defendant, A. S. Twyford, was owner of a leasehold cottage and premises at Wimbledon, held by him on a lease for twenty-eight years from the 25th of December, 1863. By an agreement dated the 24th of April, 1868, the plaintiff agreed to purchase this cottage at the price of £500, and to take an assignment of the lease, and the defendant Twyford agreed to advance £400, part of the purchase money, on mortgage of the premises, and further agreed that this sum of £400 should not be called in for five years, though the plaintiff was to have the option of paying off the same at any time on giving six months' notice.

By deed, dated the 9th of May, 1868, the premises were accordingly assigned to the plaintiff for the remainder of the term; and by another deed of the same date, made between the plaintiff of the one part and the defendant Simson of the other part, the plaintiff, in consideration of £400, then paid by Simson to Twyford, morgaged the same premises to Simson, the deed containing the usual covenant for payment of the principal within six months, and for payment of interest every 25th of March and every 29th of September, until the principal should be paid, and providing that, in case of default, the mortgagee might enter and take possession, but