

wheresoever.—*Held*, to be restricted to personality by the general scope of the will.

V.C.W.                      STEPHENS v. IOTHAM.                      March 15, 20.

*Executor—Renewal of lease—Covenant by testator.*

Lease to B. for 21 years, with a covenant by A., the lessor, that he will grant a new lease at the expiration, for a further term of 9 years, and by B., for himself, his executors, administrators, and assigns, to execute a counterpart of such new lease. B. dies before the expiration of the 21 years.

*Held*, (following *Phillips v. Everard*, 5 Sim.) that the executors who had admitted assets were bound to execute the new lease for the further term, which had been tendered to them.

CORRESPONDENCE.

To the Editor of the "Upper Canada Law Journal."

DEAR SIR,

Within the last few days I have been shewn a Circular, signed by most of the legal practitioners in Toronto, to the effect that certain increased Agency Fees would be required by all signing the document I refer to. You have doubtless seen it, and it is unnecessary for me further to refer to it. But I would, though the medium of your very useful paper, offer a few remarks with reference thereto, which have suggested themselves to me, while probably many gentlemen whose names are appended to this agreement, placed them there without giving the matter a thought, simply induced to do so by the fact, which it is not my object now to dispute, that many of the Fees for Agency are very inadequate to the duties required and the labour and time expended. With regard to myself I may remark, that I was never asked for my signature, and never knew of the existence of this Circular till within the last week, and consequently have never had an opportunity of expressing any opinion on the subject. But on reflection (induced by my having to consider whether I agreed with the object of this Circular, or the means adopted to carry it out, and should therefore notify those gentlemen for whom I act to that effect, or not) several, as they appear to me, grave objections to the course pursued present themselves to my mind.

I pass by the question itself, whether the fees for Agency demand revision and increase—I will go further, and admit that oftentimes they are inadequate—neither will I object to any unfairness toward the country practitioners, involved in the mode adopted to effect the end in view, but I do think that on professional grounds it is open to many objections.

In the first place, I cannot but think that this is a precedent to a system of "Clubbing" for a higher tariff, against which I most decidedly set my face, and fervently hope that, at least in our profession, we may never be driven to such extremities; besides, I see no end to it—neither can I foresee to what purposes it may be applied: I would therefore object to it at the very first.

Again, when a step of this kind depends on the views taken by each and every individual, who is asked to agree to it, a door is at once opened to dissension between the members of the profession; you risk that unanimity of feeling and uniformity of practice, which hitherto has always existed amongst us, and which is the very essence of that "Esprit du corps" which I trust may ever be seen in our profession. What perhaps is still worse, a temptation is held out to any unprincipled practitioner to refuse to accede to the step con-

templated, from the very hope that he may possibly benefit thereby in obtaining, for that very reason, an increase of that class of business; and all this because the change is effected by no competent authority, to which every man would feel not only justified in yielding, but even bound to, no matter what his own ideas might be. If it be true that as between the Principal and Agent, the relation is of so private a character, that the Courts would decline making a rule on the subject, or the Legislature to pass an Act to regulate the Fees, at least we might have a proper committee formed to report on the subject: or better still, an "Incorporated Law Society" under whose cognizance all such matters might come. But while it is a matter of mere private opinion, though it may be very true for Messrs. A. & B. in a very large and lucrative practice of their own, to say that it is not worth their while to attend to agency duties, unless at a higher rate, it may be quite untrue for another who is just beginning his profession to say so. The proof of this is that there is scarcely a practitioner of any eminence, who has not for years been engaged in agency business at the old rate of fees. I confess, to me, who only within the last few weeks undertook to act as agent for a gentleman practising in the country at the old established tariff for agency, it seems an absurdity to write to him now and say that I suddenly feel the agency fees are so inadequate, that in justice to myself, I consider they must be increased; and yet, unless I say this, I must confess that I simply follow suit—an admission I do not feel at all desirous of making.

Again, I do not think it is fair to the junior members of the profession. A few seniors determine that they will not transact a certain species of business at the recognized rates; now if they simply declined to act unless at increased fees, it is true that probably much of that business might find its way from them into the hands of juniors; and if it did, I don't see the objection, that when a man has reached a certain point in his profession some of the simplest descriptions of practice, should be given up by him, and thus his success should indirectly be beneficial to those whose turn has yet to come. But if you introduce this system—the moment a man thinks he can afford to demand a higher rate for his services, he gets a few, who are in the same position as himself, to join him—they sign their names to a declaration to that effect, and, as I think, a false influence induces younger men to sign their names, without the same reasons for doing so, because they don't like to oppose their brethren of higher standing.

If such a change is not effected by some competent and acknowledged authority, then it is far better to leave it as it is, and as it has for years been recognized.

If the relation of Principal and Agent be purely a private one, it should not be sought by a side wind to make it a quasi professional one. If it be as I conceive it really is a professional one, no change should be attempted from what is recognized, unless by acknowledged authority which no one could dispute.

For these reasons I consider that, however just the end itself may be, the means adopted for effecting it are faulty and objectionable.

I enclose my name, which is entirely at your service, should any one care to know it. Possibly my remarks may call forth an answer, which will satisfactorily dispose of my objections. If so, no one will be better pleased than myself, nor will any one then more readily accede to an arrangement, of which, at present, I cannot feel justified in approving.

I remain, dear sir, truly yours,

Toronto, April 25, 1855.

A. N.

[The subject matter of the above Letter is interesting and of importance to the members of the profession generally—