

legal, and that of the heirs equitable, but this view we think is amply refuted by Magee, J.A., who while conceding that if the devise were to be treated as a devise of land, the rule would be applicable, comes, however, to the conclusion that as the will gave the executors a power of sale for the purposes of division in case the beneficiaries could not agree to a partition, therefore the land devised must be deemed to be personalty to which the rule in Shelley's case would not be applicable, and for that reason he agreed in the result arrived at by, though not in the reasons of, the other members of the Court. But assuming that Mr. Justice Magee be correct as to the character of the devise or bequest, one would have thought, but for the learned judge's contrary opinion, that a bequest of personalty to A. for life and in trust for his heirs would give A. the absolute property in the subject of the bequest, because it seems to us that in such a bequest the word "heirs" would have to be read as "executors and administrators," and a bequest to A. for life and in trust for his executors and administrators seems to be an absolute gift to A.

THE CONDUCT OF AN ACTION.*

A year ago I had the pleasure of addressing the Ontario Bar Association upon a somewhat difficult subject, "The Art of Cross-examination." For some reason or other, you and your colleagues in office have asked me to devote some time at this session to the discussion of a similar subject, not so much, as I understand it, from a legal or technical standpoint as from

*An address delivered by E. F. B. Johnston, K.C., before the Ontario Bar Association, on the 27th of December last.

We make no apology for devoting considerable space to this address, as it is both instructive and continuously interesting. It is, moreover, a valuable reminder to students of the law and young practitioners, of the standard of professional ethics which should govern their conduct, as well as a luminous discussion by a lawyer of long and varied experience of the salient features of an action at law, and the best way of dealing with them. He speaks from an outside standpoint, as an observer who knows the game, and who has "played the game" himself as it should be played.