

Chan.]

NOTES OF CASES.

[Chan.

local statute of New York in support of it. In "Chitty on Bills," a large number of British statutes are cited; but the statute 21 Hen. III., is not even referred to. But the learned author inferentially controverts the doctrine declared in *Kohler v. Montgomery*. He says: "On a bill dated January 28, 29, 30, or 31, and payable one month after date, the time expires on February 28, in common years; and, in the three latter cases (January 29, 30, 31), in leap year on the 29th."

After a critical examination of the English statute, the Court decided that it was intended to settle the "year and a day," within which time certain acts in the English practice were required to be performed; and it dealt with the year as an entirety, and had no relation to fractional parts of the year, whether expressed in days or months. "No one would think," said the Court, "that the statute in question required that the 28th and 29th days of February should be regarded as having only twelve hours each. Is a man who works on February 28 and 29 to have pay for one day only? Is one who borrows money on February 27, for one day only, entitled to the use of it for one day longer—and that, too, without interest? Has a judgment, rendered February 28, no priority as a lien over one rendered on February 29? Could a man, sentenced to be hung on February 29, be legally executed on February 28? Could a man, indicted for selling whisky on Sunday, February 29, escape punishment on the plea that he sold the liquor on the latter part of Saturday, February 28?" The service, therefore, was held to be sufficient.—*Washington Law Reporter*.

NOTES OF CASES.

IN THE ONTARIO COURTS, PUBLISHED
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CHANCERY.

V.-C. Proudfoot.]

[October 23.]

FLEURY V. FLEMING.

Injunction—Simple contract creditor.

Held, following the decision in *Abell v. Morrison*, 23 Grant, 109, that a creditor by simple con-

tract was entitled to an injunction to restrain his debtor from disposing of his property with a view of evading execution, although the creditor had not obtained judgment: *St. Michael's College v. Merrick*, 1 App. R. 520, referred to and distinguished.

V.-C. Proudfoot.]

[October 23.]

GOULD V. STOKES.

Will, construction of—Conversion into personality.

A testator directed his executors to sell and realize all his estate in such manner as they should think proper, and the residue, after sundry devises and bequests, he desired them to divide into certain shares, one of which he directed to be equally divided among the daughters of his son, S. V., deceased, to be paid to them on their attaining 21, or sooner if the executors should think it for their advantage; and in the event of the death of any of his granddaughters without leaving issue, her or their shares to be equally divided among their surviving sisters or their heirs.

Held, that this operated as a conversion of the estate into personalty, and the words "dying without leaving issue" referred to the period of distribution; that is, when the legatees attained 21; and, therefore, that the share of one of them who had died after the testator, and after having attained 21, without issue, went to her personal representatives.

V.-C. Proudfoot.]

[October 23.]

OWSTON V. GRAND TRUNK RAILWAY CO.

Purchase of right of way—Tenant pour autre vie—Demurrer.

The bill alleged that tenants *pour autre vie* had sold and conveyed to a railway company land for their roadway. After the cesser of the life estate the parties entitled in remainder filed a bill against the vendors and the company, seeking discovery as to what estate or interest the vendors had conveyed, stating that the company alleged they had paid the vendors the full price of the fee in the land, and that they (the vendors) were liable to account for the price so paid, and prayed for an account and payment to the plaintiffs of a proper share or proportion thereof:

Held, on demurrer by the vendors, that no sufficient ground of equity was alleged against them; the plaintiffs, however, to be at liberty to amend their bill as they should be advised.