

part of the title to be proved at the hearing by the plaintiff; for the onus of proving it lies upon him, and if he fails he can go no further.

Frankenstein v. Gavin, (1897) 2 Q.B. 62, ante p. 651, followed.

Decision of STREET, J., affirmed.

W. R. Smyth, for the plaintiff.

Bradford, for the defendants Shadrach and Drusilla Fawkes.

Divisional Court.]

[Oct. 5.]

IN RE GRANGER *v.* BLACK.

Children Protection Act—Right of appeal to General Sessions, 56 Vict., c. 45, 58 Vict., c. 52, O.

Judgment noted supra p. 535, affirmed.

ROSE, J.]

[Oct. 6.]

GOFF *v.* STROHM.

Will—Legacy—Vested interest—Period of payment.

Where a testator gives a legatee an absolute vested interest in a defined fund, the Court will order payment on his attaining 21, notwithstanding that by the terms of the will, payment is postponed to a subsequent period.

Rocke v. Rocke, 9 Beav. 66, followed.

H. M. Mowat, for the applicant.

ARMOUR, C.J., FALCONBRIDGE, J., }
STREET, J. }

[Oct. 7.]

HAMMOND *v.* KEACHIE.

Costs—Married woman—Judgment against—Costs payable out of separate property—Costs payable to married woman—Set-off.

Judgment for debt and costs having been recovered by the plaintiffs against the defendant, a married woman, to be levied out of her separate estate, there was an appeal by the plaintiffs as to the form of the judgment, which was dismissed with costs. An application to vary the order made upon the appeal, by directing that the costs thereof should be set off pro tanto against the amount of the judgment was refused; but the Court intimated that the taxing officer, upon taxing the costs of the appeal, would have power under Rule 1164 to set them off pro tanto against the costs awarded by the judgment to be levied out of the defendant's separate property.

Pelton v. Harrison, (No. 2), (1892) 1 Q.B. 118, followed.

Aylesworth, Q.C., for the plaintiffs.

F. C. Cooke, for the defendant.