

## RE DUNCAN—MIDDLETON, J., IN CHAMBERS—JULY 2.

*Distribution of Estates—Intestate Succession—Absentee Next of Kin—Presumption of Death—Inquiry—Reference—Liability.*]—Motion by the administratrix of an estate for an order permitting her to distribute the estate upon the theory that her sister Margaret Ann Duncan, who had not been heard of for many years, had predeceased the intestate. The amount involved was \$3,000; and it appeared to the learned Judge that some further investigation should be made before the order sought should be granted; and for this purpose the matter should be referred to the Master in Ordinary to inquire and report, after due advertisement, who are the next of kin of the intestate and entitled to share in her estate. As the applicant is the only person entitled if she is correct in assuming that her sister predeceased the intestate, she cannot by this means free herself from liability; and the undesirability of incurring the expense of this reference is suggested. But, if she sees fit, she is entitled to it. C. W. Plaxton, for the applicant.

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 REAL CAKE CONE CO. v. ROBINSON—MIDDLETON, J., IN CHAMBERS—JULY 2.

*Contempt of Court—Disobedience of Injunction—Consent Judgment—Locus Pœnitentiæ—Undertaking to Discontinue Manufacture of Goods in Form Similar to those of Plaintiffs—Costs.*]—Motion by the plaintiffs for an order for the committal of the defendants for contempt of Court by disobeying a judgment pronounced on consent on the 17th May, 1915. The judgment restrained the defendants: (1) from manufacturing, selling, and dealing in ice-cream cones having thereon the words "real cake;" (2) from manufacturing, etc., cones so nearly resembling the cones made by the plaintiffs as to deceive; and (3) from passing off their cones as the cones of the plaintiffs. MIDDLETON, J., said that the rights of the parties were fixed and determined by the consent judgment. There was no breach of the first injunction—the word "real" had not been used by the defendants. There was a breach of the second and third injunctions—the defendants had manufactured and sold cones so nearly resembling the plaintiffs' cones as to deceive, and had, in effect, by producing cones of substantially the same make-up, passed off their cones as the cones of the defendants. The learned Judge also said that he preferred to regard the defend-