

REVIEW OF CURRENT ENGLISH CASES.

(Registered in accordance with the Copyright Act.)

WILL—CONSTRUCTION—LEGACY—FORFEITURE CLAUSE—SUBSTITUTED LEGACY—INCIDENTS OF ORIGINAL LEGACY WHETHER APPLICABLE TO SUBSTITUTED LEGACY.

In re Joseph, Pain v. Joseph (1908) 2 Ch. 507. The Court of Appeal (Cozens-Hardy, M.R., and Farwell and Kennedy, L.JJ.) have reversed the decision of Eve, J., upon the construction of the will in question in this case (1908) 1 Ch. 599 (noted ante, p. 354). The point it may be remembered was whether a substituted legacy was subject to the same condition as was attached to the original legacy for which it was substituted. In this case the original legacy was subject to a condition of forfeiture in the event of the legatee marrying a Christian. The substituted legacy was not expressly made subject to that condition, but Eve, J., held that it was impliedly so, upon a proper construction, but from this view the Court of Appeal dissent on the ground that the substituted legacy was given to other persons besides the original legatee, and that the legacy in question was therefore not strictly a substituted legacy, but a new and independent one.

SEWERS—DRAINAGE—STATUTORY POWERS—NUISANCE—INJUNCTION.

Price's Patent Candle Co. v. London County Council (1908) 2 Ch. 526. The plaintiffs in this case were the owners of the banks of a creek and complained that the defendants had for the purpose of relieving their sewers erected a pumping station at the mouth of the creek for the purpose of pumping when necessary the storm overflow into the creek, whereby sewage matter contained in such storm water adhered to the banks and created a nuisance, and they claimed an injunction. The sewage works were constructed and carried on under statutory authority, but the statutes expressly provided that they were to be carried on so as not to create a nuisance; and it was held by Neville, J., that the defendants could not justify their acts on the ground that they were carrying out their statutory obligations, and that the plaintiffs were entitled to an injunction as prayed; and the Court of Appeal (Cozens-Hardy, M.R., and Farwell and Kennedy, L.JJ.) affirmed his decision.