J. Ex. 258, what Pollock, C. B., there said does not apply to this case, for there the affidavit contained a description by reference of the attesting witness, and further said that it was true; here there is no reference. I therefore think the affidavit insufficient, and the rule must accordingly be discharged.

Smith and Brett, JJ., concurred.

CHANCERY.

(Reported by Alex. Grant, Esq., *Barrister-at-Law, Reporter to the Court.)*

Attree v. Attree.

Will—Construction—Gift of "all the rest."

Gift of "all the rest," following a list of bequests of sums of money.

Held, to pass real estate.

[19 W. R. 464—Feb. 9, 1871.]

The holograph will of Ann Tourle Attree, dated July 12, 1851, contained a list of gifts of sums of money to divers persons, amongst which there appeared a bequest of a leasehold house at Torquay, and concluded with the words "all the rest to be divided between the daughters of F. T. Attree, son of William Attree, late of Brighton."

This suit was instituted for the purpose of administering the testator's estate, and the question was whether certain real estate to which she was entitled passed by the gift of "all the rest."

Jessel, Q.C., and *Freeman*, for the daughters of F. T. Attree.—The gift of "all the rest" must mean "all the rest of my estate." In *Huxstep* v. *Brooman*, 1 Bro. C. C. 437, a gift of "all I am worth" was held to pass real as well as personal estate. *Bebb* v. *Penoyre*, 11 East, 160, which will be relied upon by counsel for the heir-at-law, was incorrectly decided. In *Davenport* v. *Coltman*, 12 Sim. 588, where the words were "whatever I may die possessed of," and in *Wilce* v. *Wilce*, 7 Bing. 664, where the words were "everything I die possessed of," real estate was held to pass. They also referred to *Re Greenwich Hospital Improvement Act*, 20 Beav. 458.

Sir R. Baggallay, Q.C., and *Balmer*, for the heir-at-law.—The words "all the rest" are not sufficiently large to pass real estate. *Bebb* v. *Penoyre* (*sup.*) has never been overruled. In *Huxstep* v. *Brooman* there was no doubt as to the testator's intention. The decision of *Davenport* v. *Coltman* turned upon the fact that "possessed" is an apt word to express the seisin of real estate, and in *Wilce* v. *Wilce*, on the introductory words of the will "as touching the worldly property, &c."

Jessel replied.

Feb. 9.—Lord Romilly, M.R.—I think that "all the rest" means "all the rest of my property" and includes the real estate which belonged to the testatrix. It is as if she were giving instructions for her will, and said that she meant to leave all the rest to a particular person, meaning everything she had not disposed of. I will make a declaration that the real estate passed by the will.

Vernon v. Vernon.

Newspapers—Publication of proceedings—Contempt.

Where proprietors of newspapers publish an account of and comments on pending proceedings, they are guilty of contempt of Court; but a motion to commit them at the instance of a party to the suit, when it can be proved that in one case he had supplied the materials with a view to an article being written, and, in the other, that every reparation possible had been made, will be refused.

[19 W. R. Chy. 404.]

The plaintiff in this suit, John Vernon, a farmer, living at Doddenham, claimed, by right of descent, certain estates, known as the Hanbury Hall Estates, which had been in the possession of the defendant, Harry Foley Vernon and his family, for upwards of 100 years. He alleged that his title was an equitable one, and that he was, therefore, not barred by lapse of time. Notice of these proceedings was taken in the local press, and particularly in two papers—namely, *Berrow's Worcester Journal*, of which C. H. Birbeck was proprietor, and the *Worcestershire Chronicle*, of which Knight was the proprietor. The plaintiff complained that certain articles contained unfair comments upon the matters in litigation, calculated to prejudice the Court, and prevent witnesses favourable to him from coming forward. He now moved for the committal of Messrs. Birbeck and Knight for contempt of Court.

The articles referred to in the argument were two of the *Worcester Journal*, dated the 22nd and 29th of October, 1870, respectively, and one of the *Worcestershire Chronicle*, dated the 26th of October, 1870. The article of the 29th of October said that, without questioning the plaintiff's good faith, it seemed to the writer improbable that the defendant could ever be disturbed in the possession of the Hanbury demesne. The article of the 26th commenced with the words, "It is common enough for people to be possessed with the idea that they are rightful heirs to property which is held by some one else, especially if there is any affinity of blood or identity of name. We often have people coming to inquire about advertisements for heirs-at-law and next of kin, or of a large estate awaiting a claimant by birthright or descent. Not uncommonly the hallucination ends in confirmed monomania, and the unfortunate victim of guileful fancy, revelling in some shadowy sphere conjured up by his own imagination, believes in the reality of the phantoms he has peopled it with, and becomes unfitted for the duties of ordinary life." The article then proceeded to discuss the plaintiff's claim.

Birbeck's defence was, that in 1868 the plaintiff and a man named Millage, whom he was employing to collect evidence, called at the office and requested the insertion of a short article on the plaintiff's claim. It was inserted. In October, 1870, Millage, who was clearly acting as the agent of the plaintiff, called again with a print of the bill, which he showed to Birbeck, that the nature of the claim might be noticed in the journal. The result was the article of the 22nd of October. With this article the plaintiff had expressed himself pleased. After the article of the 29th had appeared, and been complained of, no more articles had appeared. There had not been the slightest wish to injure the plaintiff's cause.