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BOSTON, Mass., U.S.A.**DECISIONS IN COMMERCIAL LAW.***In re* KINGSTON COTTON MILL COMPANY.—

Where an officer of a company has committed a breach of his duty to the company by the direct consequence of which its assets have been mis-applied, this is a "misfeasance" within the meaning of the Companies (Wind-up) Act, 1890 (England), and the liquidator may proceed against him summarily, and is not obliged to bring an action. An auditor is an officer of the company whose duty it is to examine the books, ascertain that they are right, and to prepare a balance-sheet showing the true financial position of the company; and if he does not exercise a reasonable amount of care and skill he is liable; but he is not bound to be suspicious if there is nothing to arouse suspicion. The English Court of Appeal, therefore, held that an auditor was not liable, because he had not relied on a statement signed by the managing director in the stock journal as to the value of the stock-in-trade at the end of the year, though a comparison of the books would have shown that, having regard to the cotton bought during the year, and the quantities of yarn sold during the year, the value at the end was so large as to excite suspicion and demand enquiry, and such enquiry would have led to the discovery that the value was untrue given; for that it being no part of the duty of the auditors to take stock, there was no want of reasonable care in not making such a comparison of the books for the purpose of testing the managing director's certificate where there was nothing to cause suspicion.

Rose vs. McLean Publishing Company.—

As a rule a man cannot have monopoly or property in a geographical name. The plaintiffs having published for a number of years a journal devoted to the interest of the booksellers in Canada, called *The Canadian Bookseller*, sought to enjoin the defendants from adopting as the name of a journal published and sold by them, *The Canada Bookseller and Stationer*, which for many years had been published by them under another name. There was no evidence of fraudulent intention on defendant's part. The Court of Chancery decided that the plaintiff was not entitled to the injunction sought for.

ATTORNEY-GENERAL V. CAMERON.—This is a decision of *Rose, J.*, under the Succession Duties Act of 1892. Where a testator divides up his estate so as to create present and future estates or interests, the duty is to be assessed on the whole estate at the time of his death, including both the present and future estates or interests, but duty is only payable at the death or within eighteen months thereafter on the present estates or interests; the payment of duty on the future estates being deferred until they become estates in possession or enjoyment, and the duty then payable is not the duty fixed at the time of the death, but that assessed upon the value of such estates or interests at the time the right of possession or enjoyment accrues. In computing the duty on an annuity payable on a testator's death, and of which there is present actual enjoyment, the duty thereon must be assessed on its then cash value; on a deferred annuity, duty is payable when the right to enjoy it commences. Duty is also payable on the capital producing an annuity, when it becomes distributable as legacies or part of the final distribution of the estate. The Act of 1896 so amends the Act of 1892 as to enable future interests to commute, and where duty is payable at death to allow a judge to grant further time. In case of annuities the duty is payable in four equal annual instalments.

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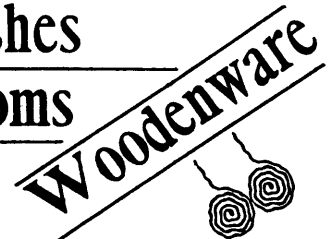
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