MERSON v. BLACKMORE.

Mr. *Harvey*, for the defendant the heir at law, cited 1 *Cro.* 330. *Dickens* verſus *Marſhall*, mentioned by Lord Ch. Juſt. *Holt* in *Cole* verſus *Rollinſon*, *Salk.* 234.

Maſter of the Rolls. Where a groſs ſum is to be paid out of the lands, to be ſure, it gives a fee to the deviſee of thoſe lands (1).

But here the debts are not at all events charged upon the real eſtate, but only contingently, if the perſonal eſtate ſhould be deficient.

And therefore does not come up to the caſes cited of a groſs ſum to be paid out of land, and conſequently gives no more than an eſtate for life to the plaintiff the deviſee.

But at the inſtance of the plaintiff's counſel reſerved this point till it comes back upon the Maſter's report.

(1) *Vide Doe* v. *Richards*, 3 *Term. Rep.* 356. *Goodright* v. *Stocker*, 5 *Term. Rep.* 13.

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Caſe 235.

Pope verſus *Curl*, *June* 17, 1741.

The defendant, on his anſwer being put in, moved to diſſolve an injunction againſt his vending a book of letters from *Swift*, *Pope*, and others (1).

A Motion was made on behalf of *Curl* the bookſeller, upon his having put in his anſwer to diſſolve an injunction, which Mr. *Pope* had obtained, againſt his vending a book intitled, *Letters from Swift, Pope, and others.*

LORD CHANCELLOR,

The firſt queſtion is, whether letters are within the grounds and intention of the ſtatute made in the 8th year of Queen *Anne*, *c.* 19. intitled, An act for the encouragement of learning, by veſting the copies of printed books in the authors or purchaſers of ſuch copies.

23 T.L.R 719
[1906] 1 Ch 107

A collection of letters as well as other books, is within the intention of the 8th of Queen *Anne*, the act for the encouragement of learning.

I think it would be extremely miſchievous, to make a diſtinction between a book of letters, which comes out into the world, either by the permiſſion of the writer, or the receiver of them, and any other learned work.

[1907] 1 Ch 129
[1935] 1 Ch 292

The ſame objection would hold againſt ſermons, which the author may never intend ſhould be publiſhed, but are collected from looſe papers, and brought out after his death.

21 Q.B.D. 543
[1907] 2 Ch 586

Another objection has been made by the defendant's counſel, that where a man writes a letter, it is in the nature of a gift to the receiver.

The receiver of a letter has, at moſt, a joint property with the writer, and the poſſeſſion does not give him a licence to publiſh.

But I am of opinion that it is only a ſpecial property in the receiver, poſſibly the property of the paper may belong to him; but this does not give a licence to any perſon whatſoever to publiſh them to the world, for at moſt the receiver has only a joint property with the writer.

(1) See *Gyles* v. *Wilcox*, *ante* 141.

POPE v. CURL.

The ſecond queſtion is, whether a book originally printed in *Ireland*, is lawful prize to the bookſellers here.

If I ſhould be of that opinion, it would have very pernicious conſequences, for then a bookſeller who has got a printed copy of a book, has nothing elſe to do but ſend it over to *Ireland* to be printed, and then by pretending to reprint it only in *England*, will by this means intirely evade the act of parliament.

Reprinting a book in *England*, which originally was pirated and printed in *Ireland*, will not be ſuffered, being a mere evaſion of *the act*.

[1925] 1 Ch. 391

It has been inſiſted on by the defendant's counſel, that this is a ſort of work which does not come within the meaning of the act of Parliament, becauſe it contains only letters on familiar ſubjects, and inquiries after the health of friends, and cannot properly be called a learned work.

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It is certain that no works have done more ſervice to mankind, than thoſe which have appeared in this ſhape, upon familiar ſubjects, and which perhaps were never intended to be publiſhed; and it is this makes them ſo valuable; for I muſt confeſs for my own part, that letters which are very elaborately written, and originally intended for the preſs, are generally the moſt inſignificant, and very little worth any perſon's reading.

No works have done more ſervice to mankind than thoſe upon familiar ſubjects, and which never were intended to be publiſhed.

The injunction was continued by *Lord Chancellor* only as to thoſe letters, which are under Mr. *Pope*'s name in the book, and which are written *by him*, and not as to thoſe which are written *to him*.

The injunction continued as to letters written by Mr. *Pope*, not as to thoſe written to him.

Guillam verſus *Holland et e contra*, *October* 14, 1741, *in the paper of exceptions.* Caſe 236.

WHERE, ſaid *Lord Chancellor*, *a portion is* charged upon land, and the will does not mention intereſt, the court will not give any more than 4 *per cent.* though the legal intereſt is 5 *per cent.* this is a rule which has been laid down of late years (1), and has been extended likewiſe to caſes, where legacies and portions are charged upon perſonal eſtates (2).

It is the rule of this court to allow no more than 4 *per cent.* where the will does not mention intereſt on portions charged upon land, and has alſo been extended to the caſes of legacies and portions charged upon perſonal eſtate.

(1) So *Hodgſon* v. *Rawſon*, 1 *Veſ.* 48. *Moore* v. *Moore*, *poſt.* 3 vol. 402. *Bryant* v. *Speke*, 1 *Veſ.* 171. *Trimleſton* v. *Colt*, 1 *Veſ.* 277. *Denton* v. *Shellard*, 2 *Veſ.* 239.

(2) So *Beckford* v. *Tobin*, 1 *Veſ.* 311. *Wood* v. *Briant*, *poſt.* 523. *Contra Moore* v. *Moore*, *poſt.* 3 vol. 402. *Swynſen* v. *Scawen*, 1 *Veſ.* 99. *Bryant* v. *Speke*, 1 *Veſ.* 171.

Booth verſus *Booth*, *July* 14, 1742. Caſe 237.

A Bill was brought by the plaintiff againſt the defendant for an account of the rents and profits of an eſtate during the time he was guardian to the plaintiff's brother, and for an injunction to ſtay the defendant's proceedings upon an ejectment for