

tried after the term has expired: but title to a past and defunct office cannot be tried in a proceeding instituted, not against incumbents during its lifetime, but against those succeeding the next year: *Id.*

Husband and Wife—Declaration of Husband as to Wife's Ownership of Property inadmissible Testimony for Her—Possession by Wife no Evidence of Ownership—Gift to Wife not a Settlement.—The declaration of the husband that certain property belonged to his wife, is not admissible as evidence in favor of the wife: *Parvin vs. Capewell.*

The mere possession of money by a wife is no evidence of her title to it for the purposes of the statute; it ordinarily implies that she is holding it for her husband: *Id.*

The mere gift of money by the husband to the wife, is not a settlement of it as her separate estate: *Id.*

Construction of Will—Meaning of Word "Heirs," in Residuary Clause of Will containing Legacies to Persons who were Heirs at Law and Others not related to Testator.—In a bequest by a testator of his residuary estate "to be equally divided amongst the whole of heirs already named in this my will proportioned agreeably to the several amounts given to each in the body of this my will," the word "heirs," is to be taken in its technical signification, as referring to those named in the will who would have been his legal heirs had he died intestate, and not to legatees who were strangers to his blood: *Porter's Appeal.*

NOTICES OF NEW BOOKS.

REPORTS OF CASES ARGUED AND DETERMINED IN THE SUBROGATES' COURTS OF THE STATE OF NEW YORK. By AMASA A. REDFIELD, Counsellor at Law. Vol. I. New York: JOHN S. VOORHIES, Law Publisher and Bookseller, 20 Nassau street. 1864.

This volume is a continuation of Bradford's Surrogate Reports, and forms the fifth of that Series. We are very glad to see that the publication of this class of reports is resumed. Bradford's Reports were heartily welcomed by the profession, and contained cases of great interest which were thoroughly and learnedly discussed by the Court. They were confined, however, to the City of New York. Mr. Redfield's volume is of

wider range, and his Series will embrace all important cases of probate law which may be decided in the various courts of the state.

A large portion of this volume is occupied with the case of *Delafield vs. Parish*, otherwise known as the *Parish Will Case*, in which the question of testamentary capacity was elaborately argued both by the bar and the bench. Mr. Redfield has wisely given the profession a summary of the able and exhaustive arguments of counsel. There is a complete view of the case, both before the Surrogate and the Court of Appeals. This case alone will amply repay the profession for the purchase of the book. There is a somewhat singular difference of opinion between Mr. Smith, the regular Reporter of the Court of Appeals, and Mr. Redfield. Mr. Smith (11 Smith, p. 66) states that the court did not intend to overrule the celebrated case of *Stewart vs. Lispenard*, 26 Wendell, 255, while Mr. Redfield maintains that a majority of the court did, in effect, overrule that decision, (204, note.)

There are other cases of interest and value, which we have not space to notice, except simply to allude to an interesting one, involving the validity of a gift *causâ mortis*, decided by Acting Surrogate Daly.

Mr. Redfield's part of the work is uncommonly well done. He has introduced a feature which we hope will become common, that of giving a table of cases cited as well as of those reported. Though such a list adds to the labors of the reporter, it is of great service to the profession.

T. W. D.

COMMENTARIES ON THE LAW OF MARRIAGE AND DIVORCE; of Separations without Divorce; and of the Evidence of Marriage in all issues; embracing also, Pleadings, Practices, and Evidence, in Divorce Cases; with Forms. By JOEL PRENTISS BISHOP, author of "Commentaries on the Criminal Law." Fourth edition; 2 volumes. Boston: LITTLE, BROWN, & COMPANY. 1864.

The author of this standard work, which has acquired high and deserved reputation for learning and accuracy, upon both sides of the Atlantic, has now recast it, and after making large additions presented it, in two volumes. In the new arrangement portions of the work appear to have been considerably transposed, but we are furnished with a parallel table of references, so as to save all embarrassment in finding references to either of the former editions, in the present one.

The work has been so long and so favorably known, that we should not feel justified in occupying more space than to assure the profession that the additional matter is wisely selected, and judiciously ordered, and that none of those, whose practice falls within the range of these volumes, can afford to be without them.

I. F. R.