The decision reached, while somewhat startling, seems to be logically deduced from the premises, and on reflection, it will, we think, appear that the danger of serious inconvenience to the public from its practical application is more fancied than real, while the protection it extends to authors in the enjoyment of their works is as efficient as it is desirable.

ABSTRACTS OF RECENT DECISIONS.

SUPREME COURT OF FLORIDA.[1]
SUPREME COURT OF ILLINOIS.[2]
SUPREME JUDICIAL COURT OF MAINE.[3]
SUPREME COURT OF RHODE ISLAND.[4]
SUPREME COURT OF VERMONT.[5]

AGENT. See *Insurance.*

ASSIGNMENT.

Order on Fund—Garnishment.—An order, draft or bill, drawn for valuable consideration for the whole of a particular fund, is an equitable assignment of such fund to the payee: *Lee* v. *Robinson*, 15 R. I.

Such an assignment is valid against a creditor subsequently garnishing, even if the garnishee was not notified of the assignment until after garnishment, provided he has time to disclose it by affidavit before judgment: *Id.*

ASSUMPSIT.

When Liability therefor arises.—If a party continues to occupy and use premises after being notified by the owner that if he does so he will be expected to pay rent, the occupant will thereby become liable to the owner for the use and occupation: *Illinois Cent. Rd.* v. *Thompson*, 116 Ill.

Money had and received.—Where one has paid to another money on a contract, and subsequently there is a rescission of the contract entitling the former to recover a part of the money so paid, he may do so upon a count for money had and received: *Evans* v. *Givens*, 21 or 22 Fla.

ATTACHMENT. See *Assignment; Partnership.*

Debts not due.—Where it is attempted to join in one attachment, proceedings for debts due and for others not due, and the allegations of the affidavit as to the debt not due are insufficient, they will not vitiate the

[1] From D. C. Wilson, Esq., Clerk. The cases will probably appear in 21 or 22 Florida Rep.

[2] From Hon. N. L. Freeman, Reporter; to appear in 116 Ill. Rep.

[3] From J. W. Spaulding, Esq., Reporter; to appear in 78 Me. Rep.

[4] From Arnold Green, Esq., Reporter; to appear in 15 R. I. Reports.

[5] From Edwin L. Palmer, Esq., Reporter; to appear in 58 Vt. Reports.

allegations or proceedings as to the debts which are due, but will be treated as surplusage: *Tanner & De Laney Eng. Co.* v. *Hall*, 21 or 22 Fla.

That attachment proceedings for debts due and those not due can be joined in the same suit doubted, but not decided: *Id.*

The purpose of the statutory provisions as to an attachment for a debt not due, in requiring an affidavit that the debt or demand is actually an existing debt or demand, is to exclude from such remedy contracts upon which the liability of the defendant is still contingent: *Id.*

BILLS AND NOTES.

Consideration—Surrender of old Note—Surety—Ignorance of Law.—The surrender of an old promissory note is a sufficient consideration for a new one executed by a surety, although the surety had been released from payment of the old note by the action of the insolvent principal, where both parties knew the substantial facts, but, being ignorant of the law, in good faith supposed the surety was liable for the old note: *Churchill* v. *Bradley*, 58 Vt.

COMMON CARRIER. See *Constitutional Law.*

CONSTITUTIONAL LAW.

Intoxicating Liquor—Screen Law.—A law requiring liquor dealers to remove obstructions to a clear view of their premises through the window on Sunday is constitutional, although it does not define what constitutes an obstruction: *State* v. *Boyle*, 15 R. I.

Statute authorizing seizure of Liquor.—A statute, which authorizes the seizure of intoxicating liquor, intended for unlawful use, in the possession of an express company, does not interfere with interstate commerce, and is not in conflict with sect. 8 of the Federal Constitution: *State* v. *O'Neil*, 58 Vt.

Railroads—Statute prohibiting Discrimination—Consolidation—Effect of.—The provisions of Pub. Stat. R. I., cap. 139, which forbid discriminations by a common carrier in his charges for transportation, apply to contracts made in this state for transportation to points beyond the state: *Providence Coal Co.* v. *Prov. & Wor. Rd.*, 15 R. I.

These provisions so applying are not in conflict with the clause of the Constitution of the United States, art. I., sect. 8, "Congress shall have power * * * to regulate commerce * * * with foreign nations and among the several states:" *Id.*

When a railroad is built by corporations located in and chartered by different states, and these corporations consolidate, they make but one corporation, whose acts and neglects are done by it as a whole: *Id.*

CONTRACT. See *Deed.*

Acceptance by Telegram—Place where completed.—An offer made in Boston, Massachusetts, and to stand until the next day, was accepted by telegram from Providence, Rhode Island. The receipt of the telegram was admitted. *Held*, that the contract was completed in Rhode Island, though to be performed in Massachusetts: *Perry* v. *Mount Hope Iron Co.*, 15 R. I.

Use of Fences for Advertisement— Construction.—A contract made by the lessees of a tract of land used for a trotting park or race course, giving the other party thereto the right to use the fences and all the buildings erected or to be erected upon the tract, except the club house, for advertising purposes, for a period of years, confers the right to use the inside as well as the outside of the main fence and the buildings inside the enclosure, except the club house: *Willoughby* v. *Lawrence*, 116 Ill.

The right to so make use of the fences and buildings, involves and includes the right of entry upon the premises to reach the buildings and the inner surface of the fence, and such latter right, if not an easement, is a burden or servitude in the nature of an easement: *Id.*

And the right of ingress and egress so conferred is more than a mere revocable license. Such right amounts to an interest in the premises in the nature of a right of way in gross, which a court of equity will regard as, at least, an equitable charge or burden thereon in favor of the grantee: *Id.*

Waiver of Time—Building House—Damages.—The plaintiff entered into a contract to build a house for the defendant by a time certain for $2250, of which $500 were to be paid in advance, and the balance was to be raised by mortgage on the house, which was to be negotiated by the plaintiff. The plaintiff failed both to negotiate the mortgage for the full amount, and to complete the house by the time agreed on, but was allowed to continue the work nearly two months afterwards, when the defendant took exclusive possession and finished it: *Held* (1), that the defendant waived the materiality of time; (2) that by stopping the plaintiff she virtually refused to permit him to raise the money by mortgage; (3) that the defendant cannot complain of the rule adopted by the court below as to damages, namely, that the plaintiff could recover what his labor and materials were worth to the defendant; because, first, she admitted, if liable, that this was the correct rule; and, second, no exception was taken to the charge as to damages: *Foster* v. *Worthington*, 58 Vt.

CORPORATION. See *Constitutional Law; Will.*

Subscription—Secret Agreement favoring the particular Subscriber—Condition not performed.—A secret agreement made with a subscriber to the stock of a railway corporation, who subscribes with others, that he shall pay only a part of his subscription, is fraudulent as to the other subscribers, and void, and his subscription will be valid and binding for the whole amount thereof: *Galena and Southern Wis. Rd.* v. *Ennor*, 116 Ill.

A subscription to a railway company to take a certain number of its mortgage bonds, containing a clause that it is not to be binding unless one hundred of such bonds are subscribed for, is not binding until one hundred of the bonds are so subscribed: *Id.*

And a subscription to be paid on demand being made at any time after the company's road should be graded to a point within five miles of a village named, the same to be in force only until September 20th 1879, after that date, without performance of the condition, is an invalid subscription and cannot be enforced: *Id.*

Liability of Stockholders— Contribution.—A statute provided that members of every incorporated manufacturing company should be liable

for all debts of the corporation until the whole capital stock was paid in and certain certificates filed. *Held*, that the liability extended to all persons who were stockholders when the debt was contracted, and also to all persons who were stockholders when the liability was enforced by legal process, but not to persons becoming stockholders after the debt was contracted and ceasing to be stockholders before the liability was enforced: *Sayles* v. *Bates*, 15 R. I.

Another statute gave to a stockholder paying such debt of the corporation an action for contribution against the stockholders "originally liable" with him for the debt. *Held*, that all persons who were stockholders when the debt was contracted, and also all persons who were stockholders when the liability for the debt was enforced, could be made to contribute: *Id.*

Trustees holding stock in trust are liable to contribute from the trust funds in their hands: *Id.*

Married women are also liable to contribute, the liability being statutory and incident to the ownership of stock: *Id.*

CRIMINAL LAW. See *Sale.*

Agent—Violation of Sabbath.—That A. employs B. in a legal business during the week does not of itself make A. liable for B.'s illegal acts on Sunday: *State* v. *Burke*, 15 R. I.

Larceny—Indictment—Description of Property.—In an indictment for larceny, the articles may be described by the name by which they are generally known or called in the community and among the people, and the evidence must substantially correspond with the description in the indictment: *Glover* v. *State*, 21 or 22 Fla.

The defendant was indicted for the larceny of a gold watch. On the trial a practical jeweller and watchmaker, after carefully examining the watch, testified that it was not a gold watch; that there were thin plates of gold on the outside and inside of the outside cases and filled with some baser metal. It is called a filled case. It is not known as a gold watch by the trade, but is known by the people generally as a gold watch. All the witnesses spoke of it as a gold watch, and it had every appearance of being gold: *Held*, that this was no variance between the allegation in the indictment and the proof: *Id.*

DAMAGES. See *Contract.*

DEED. See *Estoppel.*

Acknowledgment—Whether essential.—A conveyance of land after delivery is valid and binding on the grantors without any acknowledgment. The purpose of a certificate of acknowledgment is to prove the execution of the deed, and when its execution is otherwise proved, it is as binding as if properly acknowledged: *Robinson* v. *Robinson*, 116 Ill.

EASEMENT. See *Contract.*

EQUITY.

Territorial Jurisdiction—Creditor's Bill.—Where a court of equity attempts to act directly upon property, whether real or personal, by its decree, it is, in the absence of statutory regulation, essential to the power

of the court to act, that the property to be affected be within the territorial jurisdiction of the court: *Johnson* v. *Gibson*, 116 Ill.

But where one claims to be the owner of land or other property situate in a foreign jurisdiction, which in equity and good conscience belongs to another, the latter may sue him in equity in any jurisdiction in which he may be found, and compel him to convey the property. In such case the decree operates on the person of the defendant, and does not directly affect the property itself: *Id.*

A creditor may maintain a bill to set aside a fraudulent conveyance of his debtor in any jurisdiction where the debtor and fraudulent vendee may be found. In such case the court does not act upon the land itself, but simply declares the conveyance void, and removes the same as an obstruction to the creditor's legal remedy: *Id.*

Errors and Appeals.

Payment of Execution.—A defendant in execution delivered to the sheriff an amount of money sufficient to satisfy it, upon agreement with the sheriff that it should be returned if a supersedeas to the judgment was obtained by a certain time, and if not the amount should be applied to the full satisfaction of the execution. No supersedeas having been obtained within the time stated, the sheriff paid over to the attorneys of the plaintiff in execution in satisfaction thereof a sufficient sum to cover the amount thereof, interest and costs: *Held*, that the defendant in execution did not waive his right to prosecute a writ of error to the judgment, upon which such execution was issued: *Burrows* v. *Michler*, 21 or 22 Fla.

Evidence.

Declarations.—Evidence of a declaration of a son of one of the parties, made in the presence and hearing of his father, who remained silent, was admitted against objections, and the jury were instructed that it was for them to determine what significance they would attach to it: *Held*, no error: *Johnson* v. *Day*, 78 Me.

Opinion of Witness.—In an action to recover for injuries that occurred to one travelling on the highway, whose horse ran, and the bits attached to the harness broke, and it became important to determine what effect the breaking of the bits had as to the accident; *Held*, (*a*) that the testimony of a witness was not admissible to prove that bits in a horse's mouth could be broken by pulling on the reins; (*b*) or that the witness had had bits broken in a way similar to that the plaintiff claimed his were broken: *Carpenter* v. *Town of Corinth*, 58 Vt.

Execution.

Capias against Body—Fraud—Refusal to apply Patent Right to Debt.—The Statutes of Rhode Island provide that execution may issue against the body of a defendant whenever it shall be made to appear to the court which rendered the judgment or to any justice thereof that the "defendant has been guilty of fraud" * * * "in the concealment, detention or disposition of his property." *Held*, that such an execution properly issues without notice to the defendant. *Held*, *further*, that such an execution properly issues when the defendant owns a patent

right which he refuses to apply to the payment of the judgment against him: *Petition of Keene*, 15 R. I.

FRAUD. See *Insurance.*

INSURANCE.

Marine Insurance—Premium—Continuation Clause—Over Insurance.—An action may be maintained for the *pro rata* premium under the continuation clause of a marine insurance policy, when the vessel was at sea at the expiration of the term of insurance, though a previous action had been brought on the premium note and judgment therefor had been rendered in such action: *Ins. Co. of North America* v. *Rogers*, 78 Me.

In an action for the premium due upon a marine insurance policy, which was in the name of a part owner for the benefit of whom it may concern, the defendant presented evidence of other insurance, which made an over insurance upon his part of the vessel, and claimed to be liable, if at all, for only a ratable proportion of the premium. *Held*, that if this proposition is sound in law, the burden is on the defendant to show that the policies were simultaneous, and not intended to cover the interests of other owners: *Id.*

Acts of Agent—Estoppel—Fraud.—The plaintiff signed an application for insurance, which was written by B., "an insurance broker," in the office of the defendant's agent. The defendant returned the application to its agent for further information as to the occupancy and ownership of the property insured. The agent handed it to B., requesting him "to go and get the reply." B. took it, saw the assured, and, although he learned from him that he was only a conditional vendee in possession of the personal property, and the vendor, the tenant of the store in which it was situated, wrote in it that the assured was both the owner and tenant. B. was neither appointed nor recognised as agent by the company, or by his agent: *Held*, that the writing of the false statements, in legal significance, was the act of the agent; that the knowledge of B. was the knowledge of the company, and that it was estopped from claiming a forfeiture; that the defendant could not avoid its responsibilities by repudiating the acts of its agent, though done in part by a person employed by him: *Mullin* v. *Vt. Mutual Fire Ins. Co.*, 58 Vt.

It was the plaintiff's duty to supply the defendant with a truthful inventory; and, while in completing his proofs of loss, he could properly employ his wife to make an inventory of household effects destroyed, but when he made affidavit to such an inventory without scrutiny and without knowing whether it was correct, and the inventory contained many false statements calculated and intended to work a fraud, he thereby made the fraud his own. And it was error for the court, on request, to refuse to thus charge the jury, and to put it on the theory of honest intention, as: "Did he intentionally present a sworn statement of loss that was false," &c.: *Id.*

INTOXICATING LIQUORS. See *Constitutional Law; Sale.*

LIMITATIONS, STATUTE OF.

Acknowledgment of Stranger.—The acknowledgment of a debt, when the acknowledgment is made to a stranger and not meant to be commu-

nicated to the creditor, will not remove the bar of the statute of limitations. *Parker* v. *Remington*, 15 R. I.

Bail Bond—Successive Breaches.—Two breaches were made of a bail bond. The creditor plaintiff brought an action of debt, alleging the second breach: *Held*, that the statute of limitations against an action on the bond began to run at the time of the first breach, whether the creditor did or did not know of such breach, there being no fraud nor concealment to prevent the creditor obtaining knowledge of the breach: *Pearce* v. *Curran*, 15 R. I.

MASTER AND SERVANT.

Fellow Servant—Overseer.—A city is not liable for an injury to a laborer employed in constructing a sewer, when caused by the carelessness of one who had the oversight and direction of the work: *Conley* v. *City of Portland*, 78 Me.

MORTGAGE.

Life Support—Assignment.—A mortgage to secure an agreement to support another during life is assignable; and the condition may be performed by an assignee, unless the support is required by the mortgage to be furnished personally: *Ottaquechee Sav. Bank* v. *Holt*, 58 Vt.

And if assigned, the amount agreed upon in good faith between the assignee and the mortgagor to be paid for the support, is the sum to be paid by a subsequent mortgagee on redemption, and not what a master found was the actual cost of supporting, although the agreement was made after the second mortgage was given, the subsequent mortgagee taking its mortgage with knowledge that there was a controversy over what was to be paid on the first mortgage: *Id.*

NEGLIGENCE. See *Telegraph.*

Contributory Negligence—Burden of Proof.—It is settled law in this state that, in an action against a town to recover damages for the death of a person, alleged to have been caused by the negligence of the town in not keeping one of its ways in repair, the burden of proof is upon the plaintiff to show due care on the part of the deceased: *Merrill* v. *Inhabitants of North Yarmouth*, 78 Me.

A person undertook to drive with a horse and pung over a road, across which was flowing at the time a stream of water thirty or forty rods wide, and in some places not less than three feet deep, with a current moving at the rate of five miles an hour, and carrying upon its surface cakes of ice, some of which were twenty-five or thirty feet in diameter; at some stage of his journey, and in some way, he and his horse got out of the road and were precipitated into the deeper channel of the river below and were drowned. *Held*, that one who knowingly and unnecessarily exposes himself to such perils cannot be regarded as in the exercise of due care: *Id.*

PARENT AND CHILD. See *Evidence; Negligence.*

Wages of Minor.—When a minor son makes a contract for his services on his own account, and his father knows of it and makes no objection, the father cannot recover of the employer wages which he has paid to the son; and in such a case the question is not whether the son

was emancipated or not, but whether the father knew of the contract and made no objection: *Atkins* v. *Sherbino*, 58 Vt.

PARTNERSHIP.

Attachment of Partner's Interest.—The individual interest of a copartner in the copartnership effects is attachable. The attachment may be made by seizure of the effects, and the attaching officer may remove them for safe keeping: *Trafford* v. *Hubbard*, 15 R. I.

That the defendant copartner has overdrawn his account with the copartnership does not invalidate the attachment: *Id.*

But the execution and record by the defendant copartner of a general assignment for the benefit of his creditors dissolves the attachment: *Id.*

PATENT. See *Execution*.

RAILROAD. See *Negligence*.

RECEIVER.

Appointment without Notice.—A receiver should not be appointed, except on notice to the party whose property is to be divested, except in cases of the gravest emergency, demanding the immediate interference of the court for the prevention of irreparable injury: *Moyers* v. *Coiner*, 21 or 22 Fla.

The rule requiring notice to defendant of an intended application for the appointment of a receiver would seem to be not a matter of discretion, but an inflexible rule, subject to the above exception: *Id.*

SALE.

When Title passes—Locality of—Whether or not the legal title to personal property passes by sale is a question of intent, to be gathered from the acts of the parties, and all the facts and circumstances of the case; thus, the respondent, a dealer in New York, shipped intoxicating liquor to parties in Vermont, by express, on a C. O. D. order, which was in effect a direction by the consignor to the express company not to deliver the liquors to the consignee except upon payment. The liquors, intended for an unlawful use, were seized, without warrant, while in the possession of the express company, and confiscated, before delivery and payment; *Held* (*a*), that the seizure was lawful; (*b*) that the contract was inchoate or executory while the goods were in transit; that payment was a condition precedent, and that there was no surrender of legal title; that the express company was the agent of the consignor, and that he was legally convicted under an indictment charging him with keeping liquors for unlawful purposes: *State* v. *O'Neil*, 58 Vt.

When in such case the liquors have been delivered by the express company to the consignee in Vermont, and paid for, the sale is in this state, and the vendor is liable to a conviction for an illegal sale: *Id.*

Conditional Sale—Validity.—An agreement in writing to sell personal property, the title to which is reserved by the seller, until the purchase-money is paid by the buyer, is a conditional sale, and does not vest title in the buyer until the performance of the condition, to wit: the payment of the purchase-money, notwithstanding that at the time

of making said agreement, possession of the property is delivered by the seller to the purchaser: *Campbell Printing Press Co.* v. *Walker*, 21 or 22 Fla.

Such an agreement is valid, as against subsequent creditors and *bona fide* purchasers for valuable consideration, without notice: *Id.*

SET-OFF.

In Equity.—It is not essential to the proper allowance of a legal demand as a set-off in equity against a judgment at law, on the ground of the insolvency of the party in whose favor the judgment was recovered, that the insolvency should have occurred subsequent to the judgment. The set-off may be allowed irrespective of the time of the occurrence of the insolvency, whether before or subsequent to the judgment: *G. & S. W. Rd.* v. *Ennor*, 116 Ill.

And although the cross-demand in such case might have been set off in the action at law in which the judgment was recovered, that was permissive, but not compulsory on the defendant: *Id.*

SUNDAY. See *Criminal Law.*

TELEGRAPH. See *Contract.*

Negligent Transmission—Liability of Company—Cipher Message.—When a telegram is delivered to an operator, employed by a telegraph company for transmission and delivery to the person to whom it is addressed, and the consideration for said service is paid to and accepted by such operator, the law enjoins on such company prompt and skilful performance of their undertaking: *Western Un. Tel. Co.* v. *Hyer*, 21 or 22 Fla.

If a telegraph company, to whom a telegram has been delivered, as above, fail to transmit or to deliver the same to the person to whom it is addressed, within a reasonable time, such company is responsible for such failure, to the person injured, whether he be the sender or the person indicated in such telegram as the one to whom it was to be sent, for such damages as are proximate and reasonable, and naturally result from such failure: *Id.*

It is no defence for said company, when sued for failure to transmit and deliver a telegram, as above, that the sender did not inform them or the operator of its importance, when they fail to show that if they or their operator had have received such information, it would in any respect have changed the method of its transmission, or the time in which it was to be sent, the agency employed, the price demanded therefor, or the degree of skill used in its transmission: *Id.*

Nor is it any defence to said company that such message is in cipher or words, the meaning of which the operator does not know; provided, such message is plainly written and the words therein are in the letters of the English alphabet: *Id.*

TRADE MARK.

Character of—Infringement—Protection afforded in Equity.—The words "health-preserving," preceding the word "corset," in the name adopted by the manufacturer of corsets, made under letters patent, but describe

a quality of the corset, or the effect which its use will produce, and can not therefore, be employed as a trade mark: *Ball* v. *Siegel*, 116 Ill.

It is well settled that directions, advertisements, notices, &c., constitute no part of a trade mark, and also, that no one can obtain a trade mark in the form, appearance or finish of his goods, so that another may not lawfully make his goods like them, nor can there be a trade mark in the form or color of a package or box: *Id.*

Even if a party has a trade mark in the name of "Balls" and picture and words and form of lettering on the labels pasted on his boxes, containing corsets, there is no infringement of the same when a different name is used by another manufacturer, with a picture, words and form of lettering on the labels pasted on his boxes so totally unlike those of the former, as that no one can reasonably mistake the one for the other: *Id.*

As a general rule, exact similitude is not required to constitute an infringement of a trade mark, or to entitle the complaining party to protection; but if the words of the alleged infringing device, are such as would be likely to mislead persons in the ordinary course of purchasing the goods, and induce them to suppose they were purchasing the same article, then the similitude is such as entitles the injured party to equitable protection, if he takes seasonable measures to assert his rights and prevent their continued invasion: *Id.*

But a court of equity is not bound to interfere, when ordinary attention will enable purchasers to discriminate between the trade marks used by different parties: *Id.*

Vendor and Vendee.

Vendor's Lien—Principle on which Lien rests—Waiver.—The principle governing courts of equity in the enforcement of liens, is the implied agreement held to exist between the vendor and vendee that the former shall hold a lien on the lands sold, for the payment of the purchase price, on the ground that the person who has the estate ought not, in conscience, as between them, to keep it and not pay the purchase-money: *Beal* v. *Harrington*, 116 Ill.

If a vendor of real estate takes collateral and independent security for the purchase-money, he thereby releases and waives all right to a vendor's lien: *Id.*

A person purchased a tract of land for himself, for which he agreed to pay by a stock of goods valued at $4000, and the conveyance of town lots valued at $1000, and had the land so purchased by him conveyed to his two sons in trust for himself, they paying nothing, and delivered the goods, but was unable to convey the lots for want of title thereto. The sons afterward, at the father's request, conveyed the land to a third person, who paid nothing therefor, but held the title for the father: *Held*, that the vendor of the land had a vendor's lien upon the lands conveyed by him, to the extent of $1000, the amount of the unpaid purchase-money, which he might enforce as against the sons and their voluntary grantee: *Id.*

Will.

Legacy—Accord and Satisfaction—Interest.—Legacies, unless otherwise controlled by the will, draw interest after one year from the probate

of the will; and the rule is not affected by the fact that the executor is unable to gather in the assets and pay the legacy within the year: *Vermont State Baptist Convention* v. *Ladd*, 58 Vt.

When there is a dispute between an executor and a legatee as to the amount of interest due on a legacy, on account of the expense and delay caused by a long litigation carried on for the protection of the estate, an acceptance by the legatee of a sum less than the one due on the legacy is an accord and satisfaction, if the payment is made upon the express condition that it shall be in full for the balance due, and the money is accepted without protest against such condition: *Id.*

Devise—Charity—Corporation.—A devise of real and personal property generally, without stating the purpose, to a corporation created and existing for educational purposes alone, must be regarded as a devise for educational purposes: *Female Academy* v. *Sullivan*, 116 Ill.

A corporation for educational purposes, as, an academy, is not one for "pecuniary profit," merely because fees are charged for tuition. A corporation for pecuniary profit is one organized "for the pecuniary profit of its stockholders or members:" *Id.*

Devise—Life-Estate—Residuary Devisee.—When a party is the devisee of the interest in real estate specifically devised as a life-estate, that fact will not preclude such party from taking the remaining interest in the estate in the character of a residuary devisee: *Davis* v. *Callahan*, 78 Me.

By one clause of a will the testator devised unto his wife, for and during the term of her natural life, certain real estate. The reversionary interest therein was not specifically devised. By the general residuary clause he devised unto his wife all the rest, residue and remainder of his estate, real, personal and mixed, wherever found and however situate. *Held*, that by the terms of the will and the intention of the testator as gathered from the whole instrument, the wife took an estate in fee in the real estate thus devised: *Id.*

Deficiency of Assets—Annuities—Legacies.—When the possibility of a failure of sufficient assets to meet the legacies named by a testator in his will, has not been anticipated and specifically provided for by him, the presumption of intended equality prevails between general legatees, as well as equality in respect to the share to be borne in all deficiencies of assets: *Emery* v. *Batchelder*, 78 Me.

In the administration of testamentary assets where there is a deficiency of such assets after the payment of debts, expenses and specific legacies the loss is to be borne pro rata by those pecuniary legacies which are in their nature general: *Id.*

Annuities stand upon the same footing as legacies: *Id.*

Between annuitants and legatees there is no priority merely because one is an annuitant and the other a legatee, where the estate is deficient, but both must abate proportionally: *Id.*