

1886

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 IN THE  
GOODS OF  
GOSLING.

*R. A. Pritchard*, on behalf of the executors, moved the Court to declare that these words were a writing declaring an intention to revoke within s. 20 of the Wills Act. He referred to *Ford v. De Pontes*. (1)

BUTT, J. The intention of the testator is so manifest, and the writing, though it does not come up quite to the letter of the statute, is so clearly within its intention that I grant the application and exclude the first codicil from probate.

Solicitor : *W. Timbrell Elliott*.

R. A. P.

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 March 16.

IN THE GOODS OF JAMES LEVERINGTON.

*Will—Witness—Subscription.*

A will was signed by the deceased in the presence of two persons, one of whom subscribed it with his own name and the other with the name of her husband :—

*Held*, that the will was not properly attested.

JAMES LEVERINGTON, late of Attleborough, in the county of Norfolk, carter, deceased, made his will, dated the 2nd day of September, 1873, and died on the 5th of April, 1885.

The will had no attestation clause, and was signed by the deceased and purported to have been attested by Benjamin Buddell and Frederick Leverington. It was read over and signed by the deceased, in the presence of Benjamin Buddell and Sarah Ann Leverington, the wife of Frederick Leverington, who, after the deceased and Benjamin Buddell had signed their names, signed her husband's name at the request of the deceased instead of her own, her husband being unable to write. Her husband was not present when the deceased signed.

*Searle* moved for probate. All the next of kin consent that the opinion of the Court may be taken on motion : 1 Vict. c. 26, s. 9 ; Williams on Executors (8th ed.), p. 96 ; *Charlton v. Hindmarsh* (2) ; *In the Goods of Duggins* (3) ; *In the Goods of Elizabeth*

(1) 30 Beav. 572.

(2) 8 H. L. C. 160 ; 1 S. & T. 433.

(3) 39 L. J. (N.S.) P & M. 24.

*Trevanion* (1); *In the Goods of White* (2); *In the Goods of Kileher* (3); *In the Goods of Sperling* (4); *In the Goods of Mad-dock* (5); *In the Goods of Cope*. (6)

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IN THE  
GOODS OF  
LEVERINGTON.

BUTT, J. Upon the authority of the cases cited I am of opinion that the will was not properly attested. Probate refused.

Solicitor: *Jameson*.

R. A. P.

WINGROVE *v.* WINGROVE AND OTHERS.

1885

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Nov. 19.

*Will—Undue Influence.*

By SIR JAMES HANNEN (President). To establish undue influence sufficient to invalidate a will, it must be shewn that the will of the testator was coerced into doing that which he did not desire to do, and the mere fact that in making his will he was influenced by immoral considerations does not amount to such undue influence so long as the dispositions of the will express the wishes of the testator.

THE plaintiff as a legatee propounded a will dated the 15th of September, 1869, of Elizabeth Wingrove, late of 87, Long Lane, West Smithfield, and alleged that a codicil dated the 9th of October, 1880, which revoked some of the gifts to him, was procured by the undue influence of the defendants. The defendants in the statement of defence denied that the codicil was procured by undue influence, and claimed probate of it together with the will. The action had been tried by a common jury, who found a verdict for the plaintiff, which was subsequently set aside and a new trial ordered by a special jury.

*Murphy, Q.C.*, and *Gye*, appeared for the plaintiff, and

*Inderwick, Q.C.*, and *Pritchard*, for the defendants, in the second trial.

The burden of proving the undue influence being upon the plaintiff, his counsel opened the case.

SIR JAMES HANNEN (President), in addressing the jury said:—Gentlemen of the jury, I must ask your particular attention to

(1) 2 Robert. 311.

(2) 2 Notes of Cases, 461.

(3) 6 Notes of Cases, 15.

(4) 3 S. & T. 273.

(5) L. R. 3 P. & D. 169.

(6) 2 Robert. 335.