

distinction as decisive in this matter. The true distinction is to be found in the passage ([1910] 1 Ch. 700) which I have read from the judgment of BUCKLEY, L.J. There is a disposition of income for a time that is followed by a disposition of corpus, and there is no indefinite gift of income. That is the situation here, and, for the reasons I have given, as Margaret Mussett never did marry, in my judgment, the corpus falls into the residuary estate.

In these circumstances, I think it is unnecessary for me to come to any conclusion on the question whether the direction to settle could be treated as a direction to settle on the usual marriage settlement trusts or whether it was virtually a gift of corpus to her on marriage. The cardinal fact remains that the testator was intending to dispose of corpus on marriage, and that, I think, distinguishes this case from *Rishton v. Cobb* (1). I, therefore, propose to declare that the legacy fell into residue.

Order accordingly.

Solicitors: *Moon, Gilks & Moon* (for the plaintiff and first defendant); *Sharpe, Pritchard & Co.* (for the second and fourth defendants); *Treasury Solicitor*.

[Reported by R. D. H. OSBORNE, Esq., Barrister-at-Law.]

RIVLIN v. BILAINKIN.

[QUEEN'S BENCH DIVISION (McNair, J.), December 18, 1952.]

Libel—Privilege—Communication to member of Parliament within precincts of Parliament—Publication not connected with proceedings of Parliament—Contempt of court—Breach of injunction against repetition of libel.

The defendant in an action for libel and slander, against whom an interlocutory injunction had been granted restraining him from further publication of the alleged defamatory statements, delivered to an attendant at the House of Commons a document in a sealed envelope addressed to a member of Parliament, to whom it was handed the same day. The document contained a repetition of the statements which were the subject of the interlocutory injunction.

HELD: as the publication was not connected with any proceedings of the House, its delivery to a member of Parliament was not privileged, and the defendant was guilty of contempt of court.

AS TO PARLIAMENTARY PRIVILEGE, see HALSBURY, Hailsham Edn., Vol. 20, p. 466, paras. 565, 566; and FOR CASES, see DIGEST, Vol. 32, p. 109, Nos. 1414-1418.

Cases referred to:

- (1) *Jay & Topham* (*Proceedings in Parliament: Upon case*), (1689), 12 State Tr. 821.
- (2) *Lake v. King*, (1670), 1 Saund. 131 (85 E.R. 137); 1 Lev. 240 (83 E.R. 387); 2 Keb. 832 (84 E.R. 526); 1 Sid. 414 (82 E.R. 1189); 22 Digest 146, 1228.
- (3) *Bradlaugh v. Gossett*, (1884), 12 Q.B.D. 271; 53 L.J.Q.B. 209; 50 L.T. 620; 14 Digest 127, 990.
- (4) *Gee's Case*, (1693-97), HOUSE OF COMMONS JOURNAL, pp. 599, 699.

APPLICATION to a judge in chambers for an order of committal for contempt of court, the judgment being delivered in open court.

On Sept. 5, 1951, the plaintiff, Dr. Lilian Rivlin, issued a writ for an injunction and damages in an action for slander and libel against the defendant, George Bilainkin, her former husband. On Oct. 19, 1951, DONOVAN, J., granted an interlocutory injunction in the action restraining the defendant from further publication of slanders relating to the plaintiff and of the libels concerning her contained in a letter or letters written between December, 1950, and April, 1951, by the defendant to the National Society for the Prevention of Cruelty

to Children, or any similar slanders or libels. On Nov. 24, 1952, the defendant delivered to an attendant at the House of Commons a document contained in a sealed envelope addressed to Colonel George Wigg, M.P., to whom it was handed on the same day. On the same day he handed to the attendant four copies of the document in sealed envelopes addressed to four other members of Parliament. The document contained repetitions of accusations against the plaintiff which had been the subject of the interlocutory injunction.

Shelley, Q.C., and *Dennis Lloyd* for the plaintiff.
Gardiner, Q.C., and *Finer* for the defendant.

McNAIR, J., stated the facts and continued: On examining the contents of the document, I am satisfied that they constitute a repetition of the same accusations against the plaintiff as were the subject-matter of the original application for an injunction made to DONOVAN, J., on Oct. 19, 1951, and, accordingly, in my judgment, it is clear that they are a libel which falls within the injunction granted by that judge. It is argued on behalf of the defendant that this court has no jurisdiction to make an order for committal as the matter complained of, the publication to Colonel Wigg, occurred in the precincts of Parliament and was connected with an attempt to get Parliamentary redress for an alleged grievance. Having examined the authorities, I am satisfied that no question of Parliamentary privilege arises for a variety of reasons, and, particularly, I rely on the fact that the publication was not connected in any way with any proceedings of the House of Commons.

The defendant has filed an affidavit in which he alleges that his action in approaching the members was bona fide and that he did not realise that it involved any breach of the order in this court, and he makes an apology. In the affidavit he says:

"At the time I sincerely believed I was not committing any breach of the order. Had I thought it was a breach, I would certainly not have done it as I have no wish to do anything which is in contempt. I respectfully say that I have not wilfully disobeyed the order, but if it is decided that the communication was in breach, then I most humbly apologise, and I ask that in the circumstances I should be excused."

Having given the matter my most anxious consideration, I have decided that I am prepared to accept that expression of regret, and, accordingly, I will make no order on this application save that the defendant will pay the plaintiff's costs. But the defendant should be warned in no uncertain terms that, if anything of this character occurs again and is brought to the attention of this court, he will be liable to instant committal, and it will not be open to him again to say that he acted in ignorance of his legal rights. No doubt, any judge before whom this matter may come again will bear in mind the warning which I now give him.

Order accordingly.

Solicitors: *Rubinstein, Nash & Co.* (for the plaintiff); *Montagu's and Cox & Cardale* (for the defendant).

[Reported by F. A. AMIES, Esq., Barrister-at-Law.]