

but that the residuary devisee may take in the case of a void devise, if the terms of the residuary clause be sufficiently clear and comprehensive. In a recent New York case,* however, Chancellor Walworth concluded, that a residuary devise of all the testator's real estate not before disposed of by his will, did not embrace real estate which was in terms absolutely devised to others, although such real estate was not legally and effectually devised, either from the incapacity of the devisee to take real estate by devise, or by reason of his death in the lifetime of the testator. The weight of English and American authority would appear to be in favor of this conclusion, and that the heir at law takes in such a case, and not the residuary devisee. This decree was affirmed on appeal to the Court of Errors.

64. *What is the effect of the alteration of the law in New York?*—542.

The alteration of the law in New York, Virginia, and other States, making the devise operate upon all the real estate owned by the testator at his death, may produce the effect of destroying the application of some of the foregoing distinctions, and give greater consistency and harmony to the testamentary disposition of real and personal estates.

* See *Van Kleeck v. The Reformed Dutch Church*, 6 Paige, 600, and 29 Wendell, 457.

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THE END.

APPENDIX.

A.

The mode of proof is not now prescribed. The facts must be made to appear to the satisfaction of the Court. U. S. Revised Statutes, § 2165.

B.

The clause "without being at any time, during the five years, out of the territory of the United States," was repealed by the Act of June 26, 1848, ch. 72.

C.

Chapter 934 of the Laws of New York of 1871, provides that apprentices may be bound for a term of not less than three nor more than five years, for the purpose of learning the mystery of any trade or craft. For refusal to work, an apprentice may be imprisoned for such length of time as the magistrate may deem just, or until said apprentice shall have attained the age of twenty-one years.

D.

Applications must now be made to the Commissioner of Patents, who is an officer of the Department of the Interior. The grant of privilege is not to be barred by the article having been in public use or on sale less than two years; or, if it has been patented in a foreign country, unless it has been introduced in this country more than two years. Applicants are not required to be citizens or residents of the United States. Patents are granted for the term of seventeen years; and those obtained prior to March 2, 1861, may be renewed for a term of seven years. See the United States Revised Statutes.



