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Substitution of One Cargo Coming Vessel for Another

Ernst W. Puttkammer

thirty-year provision, if valid, operating merely to postpone the enjoyment.

Possibly the theory of those opposed to the result reached in the principal case was based upon a ratio decidendi such as appears in the New York case[5] where the court said of a limitation to trustees to divide and pay at a future time, that there was no vesting until that time arrived. But this rule would seem plainly inapplicable where, as here, the limitation is to children by name[6] and where the postponement of distribution is only for the convenience of the fund or property and not for reasons personal to those who are to take.[7]

ELMER M. LEESMAN.

SALES—SUBSTITUTION OF ONE CARGO CARRYING VESSEL FOR ANOTHER.—[Federal] In *Matthew Smith Tea, etc., Co.* v. *Lamborn*[1] the same question is raised which was considered in a comment in a recent number of this REVIEW.[2] In a contract calling for the sale of a certain quantity of sugar and for its shipment from Java within a specified time by steamer to Philadelphia, is the seller who has designated a given steamer, which thereafter meets with an accident, at liberty then to designate another steamer which was loaded at the same time with the same sort of sugar, and if he is, is the designation bad if it names a steamer not originally meant for Philadelphia but destined for New York when it sailed from Java? The case previously commented on[3] allowed such a redesignation, but held that the steamer originally bound for New York was not a proper one for such a redesignation. The comment referred to disagreed on both points, holding that no new designation should be allowed, but that if it were allowed, then a proper substitute had been chosen. The instant case deals almost solely with the latter point, and it is interesting to note that in an opinion by Hough, C.J., it reaches a conclusion entirely opposed to the earlier case and fully along the lines taken in the comment.

E. W. PUTTKAMMER.

WILLS—DIVORCE AS AN IMPLIED REVOCATION.—[Michigan] The deceased married the proponent of the will in 1912 and in 1918 executed the will in question, by which she was made sole beneficiary. In 1921 at the wife's suit a decree of divorce was granted. The husband made no defense, there was no property settlement and no alimony was granted or asked. The testator took no action regarding his will, and died in 1923. Probate was contested on the ground that the divorce constituted such a change in the testator's

5. *Clark* v. *Clark* 23 Misc. 281.
6. *People* v. *Allen* 313 Ill. 157, 158.
7. *People* v. *Allen* 313 Ill. 159; *McComb* v. *Morford* 283 Ill. 589; *Thomas* v. *Thomas* 247 Ill. 546.

1. 10 F. (2d) 697.
2. March, 1925, at p. 570.
3. *National Bank of Commerce* v. *Lamborn* (1924) 2 F. (2d) 23.