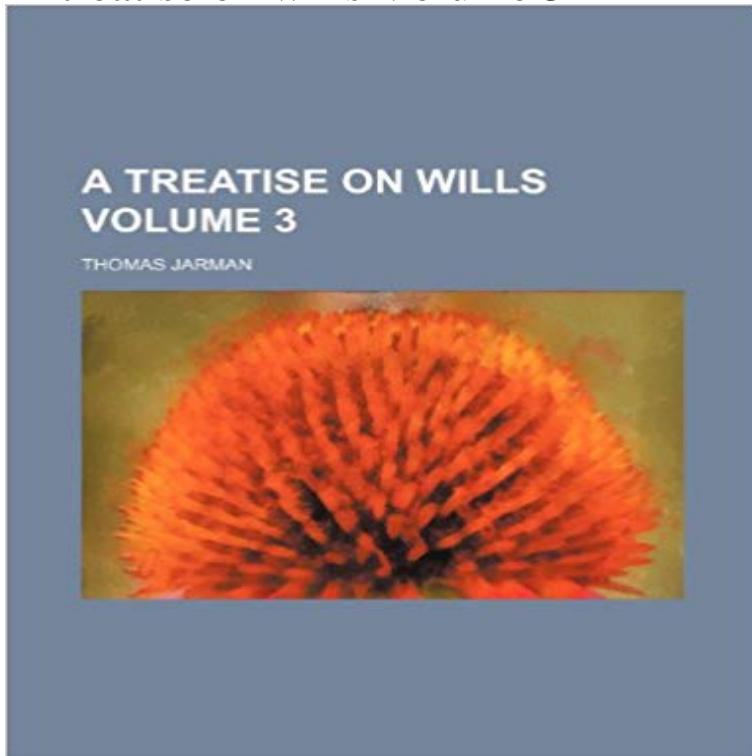


A treatise on wills Volume 3



This historic book may have numerous typos and missing text. Purchasers can download a free scanned copy of the original book (without typos) from the publisher. Not indexed. Not illustrated. 1881 Excerpt: ... whom she devised all her rear! estates in fee, and also the residue of her personalty, after payment of. her debts and funeral expenses, Sir J. Leach, V. C, held that the pecuniary legacies were not charged on the real estate devised to the executor. As this case was prior to, it must be considered as overruled by *Henvell v. Whitaker* and the subsequent cases cited above, with which it is clearly inconsistent. Neither *Parker. Awbrey v. Middleton* nor *Alcock v. Sparhawk* was cited to, or noticed by, the V. C. And the circumstances that the estate given to the devisee is an Effect where fak fa#, and the direction to pay the debts is connected nluatenMt Dv juxtaposition with the bequest of the personalty and In tail, Ac g appointment of executor, and separated by several intervening sentences from the devise of the lands, are, it seems, immaterial. Thus, in *Cloudsley v. Pelham*, (t) where a testator devised land to A and the heirs of his body, remainder over; and in another part of his will gave to A all the personal estate, and appointed him executor, willing him to pay the testators debts; it was held that the real estate was charged. It is not equally clear, however, that a direction to an executor to where by Pav debts, would have the effect of charging lands devised tenant for life. to i,jm j. uje 0Qy Undoubtedly in *Finch v. Hattersley (Jfe)* the real estate was held to be charged under circumstances of this nature; but it does not appear that the fact of the executrix being a devisee for life of the real estate had any influence upon the court; and as the case was decided when a general direction to an executor to pay debts might possibly have been considered sufficient to charge them upon real estate

not devised to the executor (the doctrine
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