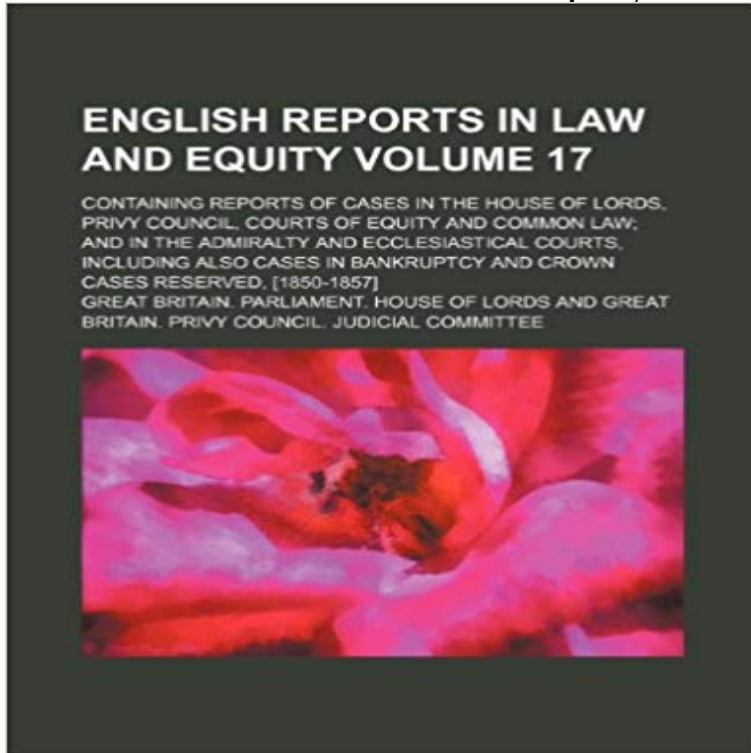


English reports in law and equity; containing reports of cases in the House of Lords, Privy Council, Courts of Equity and Common Law and in the ... also cases in bankruptcy and crown Volume 17



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. 1854 edition. Excerpt: ...might include illegitimate children. *James v. Smith*, 14 Sim. 214; *Evans v. Davies*, 7 Hare, 498; *Owen v. Bryant*, 16 Jur. 377; e. c. 13 Eng. Rep. 217. In the last case Lord Cranworth (then Lord Justice) said, *Primd facie* the word children means legitimate children, and is to be read as if the word legitimate were annexed. Therefore, where a will purports to give a benefit amongst children, it is the same thing as if it had said amongst legitimate children, unless something is disclosed on the face of the will which shows that that is not meant.. Here there was nothing in the will to give the word children any other than its first meaning. Neither was there any thing in the circumstances of the case, because Mary Bentley might have had legitimate children after the date of the will, and consequently the evidence offered was inadmissible. He cited also *Gill v. Shelley*, 1 Russ. & M. 336; *Bagley v. Mallard*, Id. 581, and *Durrant v. Friend*, 16 Jur. 709; a. c. 11 Eng. Rep. 2. H. Stephens, for the respondents, argued, that, as in this case there actually were no legitimate children of Mary Bentley at the date of the will, and as, from the age of Mary Bentley, there was no probability, if indeed there was a possibility, of any future children being born, there arose a latent ambiguity on applying the words of the gift to the facts; and that therefore the evidence offered for the respondents was admissible, and entitled the illegitimate children to shares under the gift. He cited *Beachcroft v. Beachcrofi*, 1 Mad. 430, and *Fraser v. Pigott*, 1 Younge, 354. Stuart, V. C., refused to receive the evidence offered, and holding that the illegitimate children had no claim, granted the prayer of the petition.

February 18. On this day the Vice-Chancellor...

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