

CONFLICT OF LAWS.

In re MACARTNEY; MACFARLANE v. MACARTNEY.
[1921] W. N. 63.

CASES turning upon the conflict of laws (private international law) are not very common in the Courts of this country.

A testator, domiciled in England, left an illegitimate daughter, born after his death in Malta by a Maltese woman, to whom he was engaged. His assets comprised estates in both countries, though the executors proved the will in England. Four years later, at the suit of the mother, the Maltese Court of Appeal granted a posthumous affiliation order, which is unknown in England, and fixed an alimentary allowance.

The question was whether this judgment could be enforced in England. Counsel for the claimant contended that the declaration of paternity was a judgment *in rem*, carrying with it the necessary consequences of alimony, and that property moved from Malta to England could be followed.

Astbury, J., held the Maltese judgment unenforceable on three grounds: (1) the recognition of the right of an illegitimate child to permanent alimony was contrary to the policy of English law; (2) the judgment was founded on a cause of action unknown in England; (3) the judgment was only *in rem* as regards the declaration of paternity, but *qua* the assignment of alimony was *in personam* against the executors, and, therefore, could not be enforced as a debt against the assets in England.

E. C. S. W.

THE LAW OF PROPERTY.

CY-PRÈS DOCTRINE TO CHARITIES.

In re WELSH HOSPITAL (NETLEY) FUND; THOMAS v. ATTORNEY-GENERAL. [1921] W. N. 98.

THIS case is of considerable interest as illustrating the application of the *cy-près* doctrine to charities.

The question to be decided was whether the surplus of the funds raised during the war in support of the Welsh Hospital at Netley could now be used to establish scholarships at the University of Wales for the encouragement of the study of medicine and surgery by Welshmen.

The alternative was that there was a resulting trust in favour of the subscribers, so that the surplus funds ought to be returned to them, but the principle of a general charitable intention was established to overrule this.

The Court would not go beyond issuing a general declaration on the understanding that the money was to be devoted to some charitable purpose. It would not decide that the particular scheme indicated was the nearest possible and practicable way of applying it in accordance with the original charitable intention.

E. C. S. W.