

cation of the proceeds of sale, whereby it was ascertained after all the accounts of the estate were taken that a balance of \$679 was pro tanto available towards the \$1,800 to be provided for the purchase of a home for the widow. The widow having come into the possession of the farm it was arranged between the co-executors that as to this \$679, the widow should have only a life estate with remainder to Mrs. Cook. To carry this out a mortgage for that sum was put upon the farm, which contained a provision for the cancelling of the security upon the deposit of a like sum of money in a bank at Prescott at any time the widow should desire. After the sale for \$10,000 application was made to discharge the mortgage upon the deposit of a proper sum in the proper bank. This was refused by Mrs. Cook who then set up the larger contention which has failed. The learned Judge finds that the defendant was in the wrong: she should have relied upon the deposit in the bank as her security and have executed a discharge of the mortgage. The judgment of the Court is to this effect with costs to the plaintiff. If the parties cannot otherwise agree, the \$679 may be paid into Court payable out according to the terms of the judgment. The counterclaim of Mrs. Cook is dismissed with costs, setting up as it does the contention of the residuary legatees which fails in all points. This judgment may be without prejudice to the passing of accounts of the estate before the Surrogate Judge and the raising of any contention there surcharging or falsifying accounts as between the executors, the costs of which he will dispose of. G. F. Shepley, K.C., for the plaintiffs in *Blaisdell v. Raycroft*. J. A. Hutcheson, K.C., for the defendant in that action, who was plaintiff in *Raycroft v. Cook*. T. D'A. McGee, for the defendant, Mrs. Cook.

ROGERS v. NATIONAL PORTLAND CEMENT CO.—RIDDELL, J., IN CHAMBERS—NOV. 9.

Discovery—Examination of Plaintiff—Default—Failure to Justify—Con. Rule 454—Order for Plaintiff to Attend at His Own Expense.—Appeal by the plaintiff from the order of the Master in Chambers of Nov. 2, whereby he directed the plaintiff to attend for examination for discovery: ante 217. RIDDELL, J., dismissed the appeal with costs to the defendants in any event, stating that he entirely agreed with the Master in Chambers, and had nothing to add to what he had said. F. R. MacKean for the plaintiff. Grayson Smith, for the defendants.