

issue was whether the vendors title was a good and marketable one. The sale took place under a power of sale in a mortgage and it appeared that the plaintiff's mortgagor was a trustee for sale of the land in question under the will of his mother, and had acquired title as purchaser under a deed from himself and co-trustee. The purchaser objected to the title upon the ground that the mortgagor was incapable of purchasing from himself and his co-trustee. The vendor produced a copy of an alleged release from all the beneficiaries which was objected to as not showing that the beneficiaries were aware of the effect of the transaction in question, and the purchaser required a deed of confirmation which the vendor refused to procure, and alleged that they had since discovered that the sale had not been in fact made to the trustee but to one of the beneficiaries, and that subsequent to the contract the trustee had agreed to take the bargain off his hands, and the conveyance had, in pursuance of the latter contract, been made direct to the trustee. The Judicial Committee of the Privy Council (Lords Davey, Robertson and Lindley, and Sir H. DeVilliers and Sir F. North) held that the title was one which could not be forced on an unwilling purchaser. The alleged intermediate sale was held not to avail to make the sale to the trustee good as it was not a completed one, and the committee adopted the decision in *Parker v. McKenna* (1874) 1 A. C. 396, to the effect that a trustee cannot validly adopt for his own benefit an executory contract to purchase to which he is himself a party as vendor. The appeal was accordingly allowed and judgment awarded rescinding the contract with costs.

To those who are desirous of abolishing the right of appeal to Her Majesty in Council, the batch of appeals allowed in this number of the reports may afford some ground for reconsidering their views.

BANK—CROSSED CHEQUE—"NOT NEGOTIABLE"—PAYMENT—BANKER, LIABILITY OF—"CUSTOMER"—BILLS OF EXCHANGE ACT, 1882, (45 & 46 VICT. C. 61) s. 82—(53 VICT. C. 33, ss. 80, 81, D.)

In *The Great Western Ry. Co. v. The London & County Banking Co.* (1900) 2 Q.B. 464, the Court of Appeal (Smith, Williams and Romer, L.JJ.) have upheld the judgment of Bigham, J., (1899) 2 Q.B. 172 (noted ante vol. 35, p. 704). It may be remembered that the facts were as follows: A rate collector had induced the plaintiffs to send him a cheque for taxes alleged to be, but which