

a new trial, in the event of a new claim being made known to him, and is not bound by s. 145 of the Division Court Act, R.S.O., c. 51, which limits the time within which an application for a new trial may be made to fourteen days.

A Division Court judge has jurisdiction, upon such application, and the appearance of a new claimant, to open up the matter again, even after judgment.

Raney for the primary creditor.

W. C. Chisholm for the garnishee.

FERGUSON, J.]

RE GARBUTT AND ROUNTREE.

[June 8.

Vendors and Purchasers' Act—Will.

A testator devised certain land to his son, W., during his lifetime, and, in the event of his death, leaving his wife surviving him, he devised the rents, issues and profits to her during her lifetime or widowhood; but, in the event of both dying within thirty years from his death, in such case he devised the rents and profits thereof, until the expiration of such thirty years, to W.'s children equally, share and share alike; and after W.'s death, and after the death or remarriage of his said wife, and provided that the thirty years should have elapsed, to all of W.'s children by his said wife, share and share alike, to have and to hold the same, after the specified periods, to them, their heirs and assigns forever. By the last clause of the will, the testator gave all the residue of his estate, real, personal, and mixed, of whatever nature or kind soever, and not otherwise disposed of by his will, to W., to have and to hold the same to him, his heirs and assigns forever.

The testator died on the 9th of January, 1876. W. and his wife both survived the testator and enjoyed their life estates, but were since dead, leaving eight children, of whom one died unmarried and without issue, and the others are now living. On a petition, under the Vendors and Purchasers' Act,

Held, that, under the will, the fee in the land, subject to the estate devised to the children until the expiration of the thirty years, vested in W. and his heirs, and, in the absence of any evidence showing whether or not W. had disposed of the land, the children could not impart a good title in fee.

St. John for the petitioner.

W. Ross for the respondent.

MEREDITH, C.J. }
ROSE, J. }

[June 29.

THE QUEEN v. PATTERSON.

Criminal law—Variance between indictment and charge—False pretences—Criminal Code, 1892, s. 641.

Case reserved. The Criminal Code, 1892, section 641, provides that "any one who is bound over to prosecute any person, whether committed for trial or not, may prefer a bill of indictment for the charge on which the accused has been committed . . . or for any charge founded upon the facts or evidence disclosed on the depositions taken before the justice."