

PRACTICE—APPEAL AFTER TIME.

In re Clayton Mills Manufacturing Co., 37 Chy. D. 28, an order had been made requiring six directors to refund certain moneys which had been paid to three of these directors out of the assets of the company, liberty being reserved to the three who had not received the money to apply as to the liability of those who had. Three of the latter on the last day entered an appeal, and this was an application by the other three for leave to appeal also, which was granted; otherwise, as Lindley, L.J., put it, there might have been this paradoxical result, if the first appeal succeeds, that the persons who *prima facie* are primarily liable might get off, while the persons who *prima facie* are only secondarily liable would have to pay.

SETTLEMENT—VOLUNTARY CONVEYANCE—SETTLEMENT BY WIDOWER IN FAVOUR OF ISSUE OF A FORMER MARRIAGE—27 ELIZ. C. 4.

In re Cameron and Wells, 37 Chy. D. 32, it was held by Kay, J., that where a widower on a second marriage makes a settlement of his property wherein limitations are contained in favour of his issue by his former wife, such limitations are voluntary, and are void as against a subsequent purchaser for value. The learned judge held that the contrary principle laid down as regards settlements by widows in *Newstead v. Searles*, 1 Atk. 265; 9 App. Cas. 320 (a principle which the learned judge says he does not profess to understand), should not be extended to settlements made by widowers.

VENDOR AND PURCHASER—VENDORS AND PURCHASERS ACT—JURISDICTION—NOTICE TO RESCIND CONTRACT, VALIDITY OF—(R. S. O. 1887, c. 112.)

Jackson & Woodburn, 37 Chy. D. 44, was an application to North, J., under the Vendors and Purchasers Act (see R. S. O. 1887, c. 112, s. 3), to determine whether a notice to rescind the contract was valid or not. The Act, it may be remembered, enables all questions arising out of or connected with the contract ("not being a question affecting the validity or existence of the contract") to be disposed of by a judge on a summary application. The point which North, J., had to decide was whether the question submitted did or did not fall within the exception. On this point he says: "I think that, according to the true construction of section 9" (R. S. O. 1887, c. 112, s. 3), "the words of exception refer to the existence or validity of the contract in its inception, and do not preclude the court from deciding upon a summons the validity of a vendor's notice to rescind the contract. The question whether a power to rescind has been well exercised has often been decided by the court upon a summons under this section. *In re Dames and Wood*, 29 Chy. D. 626, is one of such cases." On the merits he held that the notice to rescind was valid.

LEGACIES CHARGED ON REALTY—LEGATEE, RIGHT OF, TO ACCOUNT OF BACK RENTS FROM DEVISEE IN POSSESSION.

Garfitt v. Allen, 37 Chy. D. 48, is another decision of North, J. The point in issue was whether a legatee, whose legacy is charged upon land, is entitled to