selves enough to make the word "effects" include realty, yet the combination of these words and the subsequent use of the word "property" in the will as an equivalent of the word "effects" was enough to show the intention of the testator to dispose of real estate, and he therefore held the plaintiff entitled.

SETTLEMENT—PORTIONS—"ELDEST SON"—ANTICIPATION OF INTEREST—DOUBLE PORTION.

In re Fitzgerald, Saunders v. *Boyd* (1891), 3 Ch. 394, is one of those cases which, in the present social conditions of this Province, is not of very great interest here. The case arose out of a settlement of property whereby estates were limited to a father for life, with remainder to trustees for a term of years to secure £20,000 for portions for younger children "other than an eldest or only son for the time being entitled under the settlement"; with remainder to the father's first and other sons in tail male. There were five children in all. On the eldest son, George, attaining twenty-one, he joined with his father in barring the entail and resettling the estates to such uses as the father and son should jointly appoint, and subject thereto to the uses declared by the previous settlement. Under this power the father and his son created mortgages to the amount of £8,000, of which George received for his own use £3,000. George predeceased his father, the tenant for life, without issue, and his brother Charles succeeded to the estate. The present action was brought by the representatives of George, claiming to be entitled to a further share in the portions fund of £20,000. Chitty, J., held that George must be taken to have anticipated the whole of what would otherwise have come to him under the settlement, and that his legal personal representatives were not entitled to any further share of the £20,000, and as there was only one person to be excluded as "the eldest son," Charles, notwithstanding he had succeeded to the bulk of the estates, nevertheless took a share in the £20,000.

VENDOR AND PURCHASER—RIGHT OF WAY—DEFECT IN TITLE—RESCISSION—CONDITIONS OF SALE.

Ashburner v. *Sewell* (1891), 3 Ch. 405, was an action by a vendor claiming a declaration that the contract of sale had been rescinded. The agreement for sale was subject to special conditions: (*a*) That if any error should be found in the description of the lands, it should not annul the sale, but compensation should be allowed; and (*b*) that if the purchaser should insist on any objection or requisition which the vendor should be unable or unwilling to remove or comply with, the vendor should be at liberty to rescind. It turned out that a right of way existed over the property which neither vendor nor purchaser had been aware of at the time of the sale. The purchaser claimed compensation. The vendor refused to allow compensation, and elected to rescind the contract. The question, therefore, was whether this right of way was a "defect of title." The defendant claimed that the omission of the right of way in the description was an error, which was the subject of compensation under the condition of sale referred to above. Chitty, J., however, agreed with the plaintiff that it was a latent defect of title which entitled him to rescind the contract, although it also fell within the clause providing for compensation.