

half-pay. This agreement, if null as regards his half-pay, is yet susceptible of being guaranteed. We see every day parties asking guarantees in consequence of the personal incapacity of individuals to engage themselves. Besides, the transfer stipulates that the half-pay was to be payable in bills of exchange, none of which have been delivered—the surety guaranteeing jointly with the debtor, the performance of all the clauses of the act.

The defendant's exception is therefore dismissed and judgment must go for the plaintiff.

GALE Justice—I dissent from the judgment of the Court, in this case. The action is brought upon a transfer of half-pay, so alleged in the declaration. By the law of most countries, from motives of public policy, such transactions are void, and I cannot see how the surety can be held liable.

Messrs. Drummond and Loranger, and Mr. Johnson for plaintiff.

Mr. Cross for defendant.



RAINSFORD et al., vs. CLARKE et al.

Legatees cannot bring an action against a third party, charged by the universal legatee to pay them, for want of privity of contract. Query?—could several legatees join in the same action.

This action was brought by the children of Capt. W. A. Rainsford, and Mary Ann Clarke his wife, eight in number, two being still minors, their parents claiming to represent them, for the recovery of £200, being £25 to each of the children, left to them, for their education, by the will of the late Simon Clarke, Esq. A. E. Waldorf, wife of Simon Clarke, was made usufructuary legatee, and Wm. Clarke, his son,