

merits, with the result that the policy was held to have been obtained by fraud, and was ordered to be delivered up to be cancelled.

COSTS—TAXATION AT INSTANCE OF CESTUI QUI TRUST—BILL PAID BY TRUSTEES MORE THAN 12 MONTHS—SOLICITORS' ACT, 1843 (6 & 7 VICT., c. 73) SS. 37-41—(R.S.O. c. 174, ss. 45, 49).

In re Wellborne (1900) 1 Ch. 857, was an application by a cestui que trust to tax a solicitor's bill which had been paid by the trustees more than twelve months previous to the application. It was contended by the solicitor that s. 41 of the Solicitors Act, 1893 (R.S.O. c. 174, s. 49) applied and that there could be no taxation after the lapse of six months from payment of the bill. Kekewich, J., however, held that s. 41 does not apply to applications for taxation by a cestui que trust. It may be noted that R.S.O. c. 174, although authorizing an application to be made for taxation in certain cases by third parties liable to pay or who have paid a bill of costs, does not expressly include the case of a cestui que trust, although applications by a cestui que trust appear to have been entertained in *Sandford v. Porter*, 16 Ont. App. 565, and *Re Skinner*, 13 P.R. 276.

COMPANY—PROMOTERS OF COMPANY—SECRET PROFIT BY PROMOTERS.

Gluckspirie v. Barnes (1900) A.C. 240, was known in the court below as *In re Olympia* (1898) 2 Ch. 153, (noted ante vol. 34, p. 724). The proceeding was one in a winding-up matter to compel the promoters of the company in liquidation to pay over to the liquidator for the company secret profits made by the promoters. The facts were as follows: A syndicate was formed to buy and resell to a company to be formed a place of entertainment called Olympia. Four members of the syndicate of whom Gluckstein was one, also agreed to become directors of the proposed company, which was to be formed for the purpose of buying Olympia from the syndicate. Olympia was purchased by the syndicate for £140,000. There were certain charges outstanding against Olympia which the syndicate also purchased, so as to yield a profit of £20,000. The company was duly formed and in the prospectus it was stated that Olympia had been purchased by the syndicate for £140,000, and was to be sold to the company for £180,000, and the only reference made to the purchase of the charges was as