they took the one-sixth given to the "children" of the deceased sister.

VENDOR AND PURCHASER—TITLE—SALE BY EXECUTOR MANY YEARS AFTER DEATH OF TESTATOR.

In re Whistler, 35 Chy. D. 561, was an application under the Vendors and Purchasers Act. A testator bequeathed leaseholds to his executrix upon trust to pay an annuity and bequeathed his residuary estate to the executrix. Shortly before twenty years had elapsed from the testator's decease the executrix contracted to sell the leaseholds at a price to be ascertained by a named person. Shortly after the twenty years had elapsed the price was ascertained. It was not shown that there were any debts of the testator remaining unpaid, nor did it appear that the executrix had been in possession of the leaseholds as legatee. The purchaser claimed that the annuitant should be required to concur in the sale to which the vendor objected; and it was held by Kay, J., that the rule *In re Tanqueray-Willaume and Landau*, 20 Chy. D. 465, that where the executor is selling real estate after twenty years from the testator's decease, a presumption arises that the debts have been paid, and the purchaser is therefore put on nquiry,—does not in general apply to the case of an executor selling leaseholds, and therefore the concurrence of the annuitant could not be insisted on.

SOLICITOR AND CLIENT—TAXATION AFTER TWELVE MONTHS—SPECIAL CIRCUMSTANCES.

The only point necessary to be noticed *In re Pybus*, 35 Chy. D. 568, is the fact, that where a mortgagor's solicitor charged his client with a fee for negotiating the loan, in addition to the procuration fee paid to the mortgagee's solicitor, it was held by Chitty, J., that this was an overcharge amounting to fraud, so as to entitle client to an order for taxation after the expiration of a year from the delivery of the bill, especially when the solicitor making the overcharge had neglected to comply with his clients' instructions to get the bill taxed.

PRACTICE—COMPANY—WINDING UP PETITION—WITHDRAWAL BY PETITIONER—COSTS.

In re District Bank of London, 35 Chy. D. 576, is a decision of North, J., on a question of costs. With the object of putting a stop to dilatory proceedings by a joint stock company, and to protect the assets, a shareholder presented a winding-up petition; subsequently the shareholders consented to wind up voluntarily, and the petitioner then applied to dismiss his petition, and the question was whether he should be ordered to pay the costs. North, J., though conceding the general rule to be, that when a petitioner withdraws his petition he should be ordered to pay the costs of the parties appearing, yet considered the rule not to be inflexible, and having regard to the circumstances of the present case, he refused to order the petitioner to pay costs.

MORTGAGOR AND MORTGAGEE—STATUTE OF LIMITATIONS—CESTUI QUE TRUST OF MORTGAGE DEBT, BECOMING OWNER OF EQUITY OF REDEMPTION.

The only case remaining to be noted is *Topham* v. *Booth*, 35 Chy. D. 607, in which the facts were somewhat peculiar. Mary Sharp was under a will entitled for her life to the interest on a sum of money secured by a mortgage of land. She subsequently became equitably entitled to a life estate in the equity of redemption in the mortgaged land, which was conveyed to trustees on trust for her for life. During her life she received and retained the rents for more than twenty years. On her death it was claimed by the owners of the equity of redemption, that the rights of the trustees of the mortgage were barred by the Statute of Limitations. But it was held by Kekewick, J., that though no interest had been actually paid, yet as the person who was entitled to the rents was also entitled to the interest on the mortgage debt, the rights of the trustees of the mortgage were not barred, and that the fact of the rents being payable to one set of trustees, and the interest being payable to another set of trustees, did not alter the case, when the *cestui que trust* was in each case the same. At p. 612 Kekewick, J., thus summarizes the position of Mrs. Sharp.

I think that in this case the court ought to presume that Mrs. Sharp did that which any reasonable person would have done, and said, "I being entitled to receive, I being in fact for all interests and purposes liable to pay, I will not have time and trouble and expense wasted in passing money or documents from hand to hand; I shall remain in possession, I shall take the rents and profits, and the result is, I shall not get the interest on the mortgage debt *qua* interest, but I shall get it *qua* rents and profits." That seems to be the fair conclusion from the circumstances. It is, I think, supported by *Burrell* v. *Earl of Egremont*, 7 Beav. 205, and not controverted by any other case cited or any principle on which the court administers justice between parties.