

that the pecuniary legacies were not payable out of the mortgage debts. Rigby, L.J., agreed with him, but Lord Alverstone, M.R., and Collins, L.J., disagreed with them and held that the pecuniary legacies were payable out of the mortgage debts. The House of Lords (Lord Halsbury, L.C., and Lords Shand, Davey, Brampton and Robertson,) came to the same conclusion as Stirling, J., and Rigby, L.J., and have consequently reversed the judgment of the Court of Appeal. Their Lordships were of opinion that the will, speaking from the date of the death of the testator, under the Wills Act, s. 24 (R.S.O. c. 128, s. 26), must be construed according to its terms and not by reference to extrinsic evidence as to the condition or amount of the estate. That the testator, having specified expressly what deductions were to be made from the mortgage debts, it would be in fact making a new will for the testator to add the legacies to those specified deductions.

PRACTICE—JUDICIAL COMMITTEE OF PRIVY COUNCIL—SPECIAL LEAVE TO APPEAL
—CONVICTION BY SPECIAL COURT—OBJECTION TO CONSTITUTION OF COURT—
COLONIAL LAWS VALIDITY ACT (28 & 29 VICT. c. 63).

In re The Queen v. Marais (1922) A.C. 51, a defendant convicted of treason before a special Court constituted under the authority of a Provincial Act in the Colony of Natal, applied for leave to appeal to the Judicial Committee of the Privy Council, on the ground (1) that the Provincial Act was ultra vires under the Colonial Laws Validity Act (28 & 29 Vict. c. 63.) as being repugnant to the laws of England in that it deprived the accused of a right to trial by jury, and (2) that the Court was improperly constituted, the Act providing that one of the judges at least should be a judge of the Supreme Court. The Judicial Committee (the Lord Chancellor and Lords Hobhouse, Macnaghten, Davey, Robertson and Lindley) refused the application, and in doing so took occasion to say that the object of the Colonial Laws Validity Act was to conserve the right of the Imperial Parliament to legislate for the colonies by enactment expressly made applicable to them, and where such legislation had taken place to invalidate any colonial legislation repugnant thereto. But it was not intended to invalidate colonial laws because they happened to be repugnant to English law, where no such express legislation by the Imperial Parliament had taken place. The Act in question was therefore