

## RECENT DECISIONS.

meanour and contracted an equitable liability is not at liberty afterwards, with a *bona fide* purchaser, to deal with the thing which in his hands might be charged, but which when once out of his hands it is impossible that a Court of Equity can ever reach so as to make the subject itself—the substance,—liable for the nefarious transactions into which this man entered. \* \* \* It cannot be said that because a man commits a misdemeanour with relation to a certain estate, that the estate is thereby for ever bound." (iii.) The third point decided in the case was that M., an innocent purchaser for value (a mortgagee), with whom the *genuine* title deeds were deposited, was, though subsequent in date, entitled in priority over two prior purchasers for value who had been defrauded by means of the fictitious leases. As to this Bacon, V. C., said, p. 579,—M. lent his money, and had and retains possession of the deeds. \* \* \* Then, if it be a true principle of the Court of Equity that you cannot take from a purchaser for valuable consideration without notice anything which he has acquired, how can I say that the mortgage made to M. is not a mortgage first in point of rank on this estate?" And he also observes, p. 575,—“The rule *Qui prior est tempore potior est jure* is a very convenient rule when it can be applied, but when a case is accompanied by circumstances so complicated as the one before me, it is impossible solely to rely on that well-established rule of law.”

## COMPANY—CONTRIBUTORIES.

The next case *In re London, Bombay, and Mediterranean Bank*, p. 581, appears to be one of first impression: (per Hall, V. C., p. 584). A company with full knowledge allotted 140 shares to a *feme covert*, at the request of her husband, who paid the deposit and subsequent calls. The husband afterwards sold and transferred these 140 shares, executing the transfer for his wife, or in her name. All these transactions took place without the wife's knowledge. Subsequently the company was ordered to be wound up, and the wife

was placed on the list of contributories as a past holder of these shares, as to which it was held, on summons taken out on her behalf, that she was liable only to the extent of such separate estate as she was entitled to or had power to dispose of during the coverture. The liquidator of the company, having now learnt that the wife had been ignorant of the transactions with regard to the shares, applied to have the list of contributories rectified by inserting therein the names of the executors of the husband (now deceased) instead of that of the wife, so as to make his estate liable in respect of the 140 shares. But Hall, V.C., refused the application, saying that there was no case that he was aware of in which the register had been rectified where the name had been put upon the register deliberately by the company without any fraud or concealment whatever; and that the non-communication to the wife of the fact that the shares had been put into her name, could not have the effect of varying the actual effect and operation of the transaction.

*Ex parte Appleyard*, p. 587, fitly comes under the same heading as the last case. It seems only necessary to say in regard to it that a director of a company, which was being wound up, having been put on the list of contributories in respect of 500 shares, sought to prove in the winding up against the company in respect of an alleged breach of contract by the company, that he should have these 500 shares as fully paid up, and, the breach of the contract by the company having been established, he was held entitled to prove in the liquidation for damages for calls made or which might be made on the shares.

## WILL—LAPSE.

In *in re Spiller*, p. 614, a testator, having given the residue of her estate equally among A. B. and C., and such of the children of D. as were living at the date of her will, and D. having died before the date of the will, leaving no children, it was held there was no intestacy, because there was no gift, and that the whole residue was divisible among A. B. and C.