

PRACTICE—APPEAL—ORDER WHETHER FINAL OR INTERLOCUTORY—PRELIMINARY QUESTION—DISMISSAL OF ACTION.

In *Beson v. Altrincham* (1903), 1 K.B. 547, the Court of Appeal (Lord Halsbury, L.C., Lord Alverstone, C.J., and Jeune, P.P.D.) holds that an order made on the hearing of a preliminary question of liability whereby the action was dismissed was a final and not a mere interlocutory order.

MORTGAGOR AND MORTGAGEE—MONEY CHARGED ON PROCEEDS OF REAL AND PERSONAL ESTATE—ARREARS OF INTEREST RECOVERABLE—MORTGAGE OF REVERSIONARY INTEREST IN REALTY AND PERSONALTY—REAL PROPERTY LIMITATION ACT, 1833 (3 & 4 W. 4, C. 27), S. 42—(R.S.O. c. 133, s. 17).

In *re Lloyd, Lloyd v. Lloyd*, (1903) 1 Ch. 385, the Court of Appeal (Williams, Romer, and Stirling, L.JJ.) reversed Farwell, J., upon a question arising on the Real Property Limitation Act, 1833, s. 42 (R.S.O. c. 133, s. 17). The facts were as follows: A testator had died leaving his real and personal property to trustees upon trust for his wife for her life, and after her death to sell, and divide the proceeds among his children. In 1867 Francis Lloyd, one of the children, mortgaged his reversionary interest to one Allen, giving him the usual covenant for payment of principal and interest. In 1872 a suit having been instituted for the administration of the testator's estate, the real and personal estate were sold and the proceeds paid into Court, the income being paid to the widow until her death in 1890. The representatives of Francis Lloyd now applied for payment out of his share, less the principal money, and six years' interest due to the mortgagee. The representatives of the mortgagee, on the other hand, claimed the full arrears of interest from the date of the mortgage in 1867. Farwell, J., held that the mortgagee under s. 42 (R.S.O. c. 133, s. 17) was only entitled to six years' arrears of interest, but the Court of Appeal held that as the mortgagee was not seeking to recover his arrears by "distress or action" s. 42 did not apply, and that it was really substantially a case of the mortgagor seeking to redeem, and as such he was bound to pay the arrears. In coming to this conclusion, a contrary decision of Bacon, V.C., *Re Slater*, 11 Ch. D. 227, was overruled.

EASEMENT—ANCIENT LIGHT—ENJOYMENT BY "CONSENT OR AGREEMENT"—"WINDOWS OVERLOOKING"—SKYLIGHT—PRESCRIPTION ACT, 1832 (2 & 3 W. 4, C. 71) S. 3—(R.S.O. c. 133, s. 35).

Easton v. Isted, (1903) 1 Ch. 405, was an action to restrain interference with an alleged easement of light. In 1873 the