

children was original, not substitutional, and that this daughter, upon her father's death, took a vested interest in the share which, if he had survived, he would have taken. The fact that the gift to the parent was contingent did not affect the nature of the gift to the issue, which was an independent bequest. *Martin v. Holgate*, Law Rep. 1 H. L. 175.

PRIVY COUNCIL.

Practice—Appeal.—Special leave to appeal granted, notwithstanding that no application had been made for such leave to the Court below: upon the allegation, that though the amount decreed was much under the appealable value, the original demand being necessarily limited by the jurisdiction of the Court in which the suit was originally instituted, yet the subject matter at issue exceeded in value the appealable amount. *Mutusawmy Jagavera Yettara Naiker v. Venkataswara Yettia*, Law Rep. 1 P. C. 1.

Insolvency—Partnership—Liability of New Firm for debts of Old.—R., F., and R., partners in business, and dealing with F. S. & Co., took T. and S., clerks in their employment, into partnership with them. The partnership was constituted by deed, to continue for three years; and a balance sheet, showing the liabilities and assets of the existing firm, was drawn up and admitted by all the partners. The new firm continued to trade, up to the period of its insolvency, upon the same footing and with the same books as the old firm—no distinction being made in their payments, or balances, or between the debts or assets of the new, or what was the old firm. F., S. & Co. continued to deal with the new as they had done with the old firm. R., F. & R. having become insolvent, F., S. & Co., creditors to a large amount, proved against the estate of the new firm. R. and B., also creditors of the new firm, proved against their estate: and sought to expunge the proof of F., S. & Co., on the ground that their debt having accrued previous to the new partners being taken in, was due from the old, and not from the new firm:—*Held*, by the Judicial Committee (affirming the judgment of the Supreme Court of Victoria), that there was sufficient proof in the dealings and transactions of the

several parties, to show that the new firm on its formation adopted the liabilities of the old firm, and that F., S. & Co. had consented to accept the liability of the new firm, and to discharge the old firm, their original debtors.

The Act 5 Vict., No. 17 (the principal *Insolvent Act* of the colony of Victoria), sec. 39, enacts, "that any creditor who shall have or hold any security or lien upon any part of the insolvent estate, shall, when he is the petitioning creditor, be obliged upon oath, in the affidavit accompanying the petition, and when he is not the petitioning creditor, in the affidavit produced by him at the time of proving his debt, to put a value upon such security, so far as his debt may be thereby covered, and to deduct such value from the debt proved by him, and to give his vote in all matters respecting the insolvent estate as creditor only for the balance, &c. And in case any creditor shall hold any security or lien for payment of his debt, &c., upon any part of the said estate, the amount or value of such security or lien shall be deducted from his debt, and he shall only be ranked for, or receive payment of, or a dividend for, the balance after such deduction." *Held*, that this enactment does not destroy the distinction between the joint and separate estate of an insolvent, so as to compel a creditor, holding a mortgage security on the separate estate, to estimate and deduct its value, before he can be allowed to prove against the joint estate. *Rolfe and The Bank of Australasia v. Flower, Salting & Co.*, Law Rep. 1 P. C. 27.

Vice-Admiralty Court—Appeal to Privy Council.—Sec. 23 of the 26 & 27 Vic., c. 24, which limits the time for appealing from the Vice-Admiralty Courts abroad to six months, vests, by the same section, a discretion in the Judicial Committee to admit an appeal notwithstanding six months have elapsed. Circumstances showing that there was no wilful laches in not lodging petition of appeal in the Registry of the High Court of Admiralty within the prescribed time, and that the delay arose from the parties waiting a decision on a pending appeal, which involved a similar question, held sufficient for the exercise of the discretion vested in the Judicial Committee, to admit an appeal under that section, upon payment of