priated the money so received, but afterwards took a security on the said property in his own name. (i) S. was a trustee of that security for the plaintiff to the extent of the money received from him; (ii) this equitable title in favour of S. must prevail against a subsequent deposit of the said security made by S with B.; (iii) B. did not acquire priority over the plaintiff by having got in the legal estate after receiving notice of a prior incumbrance, for "nothing is better settled than that you cannot make use of the doctrine of *tabula in naufragio* by getting in a legal estate from a bare trustee after you have received notice of a prior equitable claim."

APPEAL FROM ORDER MADE ON DEFAULT IN APPEARING.

Of the next case, *ex parte Streeter*, p. 216, it seems only necessary to say that it was an interpleader matter and in it an objection was raised that a person against whom an order had been made on his default in appearing, could not appeal from the order, and *Walker* v. *Budden*, L. R. 5 Q. B. D. 267, was cited in support. Jessel, M. R., however, said that that case does not support the objection: and you are still entitled to appeal on the ground that the adverse claimant did not make out his title.

PRACTICE—EVIDENCE DE BENE ESSE IN OLD SUIT.

In *Llanover* v. *Homfray*, p. 224, the question arose whether evidence which had been taken de bene esse in an old suit, between persons privy in estate to the persons in the present action, and in which the question at issue was the same, was admissible. The Court of Appeal held that it was. Jessel, M. R., said: "If the witnesses were now alive, of course their evidence could not be read, but they must be called. There is, in my opinion, no more objection to reading this evidence than there is in any other case where the witnesses have been called and are dead. If a witness gave evidence at the trial of an action, and a new trial was ordered, then if he were dead at the time of the new trial, you could read his former evidence; but if he were alive you could not do so, but would have to call him again."

SPECIFIC PERFORMANCE—AGREEMENT TO LEASE.

The next case, *Marshall* v. *Berridge*, p. 233, contains the decision of the Court of Appeal on the point whether there can be specific performance of an agreement for a lease, when it does not appear within the four corners of the agreement at what period the lease is to commence. Fry, J., held that there could be, since such an agreement amounted to an agreement for a lease to commence *from the date of the agreement.* The Court of Appeal however, over-ruled this decision, holding that the parties, when they enter into an agreement not operating as a present demise, intend a lease to be prepared which *prima facie* will be dated on a subsequent day,—and, as Lush J. J. says, p. 244, "It is essential to the validity of a lease that it shall appear either in express terms or by reference to some writing which would make it certain, or by reasonable inference from the language used, on what day the term is to commence. There must be a certain beginning and a certain ending, otherwise it is not a perfect lease, and a contract for a lease must, in order to satisfy the Statute of Frauds, contain these elements. (ii). A subsidiary point arose in the case, which is alluded to by Jessel, M. R. The plaintiff succeeded in the Court below by inducing the Court to put upon the memorandum of agreement an interpretation which he had always repudiated, inasmuch as he induced the Court to treat the contract as a concluded one, whereas in his previous communications with the defendant, he had maintained it was conditional only, and had never signified to the defendant that this condition had been complied with. On appeal the M. R. says, p. 241,—"It would be a very singular thing that a man who had always insisted on one construction of the agreement, and had refused to take possession because that was its proper construction, should then come to a Court of Equity, insisting that the construction for which he had hitherto con-