give proper effect to the title acquired by said Wabash Railroad Company under said foreclosure proceedings, it may sue out its writ of error to the supreme court of the United States. But whether said company succeeds or fails in holding the rights and interests which said trustees, Joy, Humphreys, and Lindley, and the bondholders represented by them, hold under their several mortgages, there is no recourse on or against said trustees or bondholders, such as would render them, or either of them, liable either to the plaintiff and cross-petitioners, or to said Wabash Railroad Company. From the time, therefore, that said Wabash Railroad Company succeeded to their rights, and was made a party defendant to the state suit, said trustees ceased to have any interest in the litigation, became merely formal parties, and had no right to remove the cause.

The conclusion of the court is that the suit must be remanded to the court of common pleas of Lucas county, Ohio, from whence it was removed, for want of jurisdiction in this court to hear and determine the controversy between the parties. This judgment the removing defendants may no doubt have reviewed by the supreme court, under the fifth section of the act of 1891. The cause will be remanded, and the removing parties be taxed with the costs connected with and incidental to the removal and remanding of the suit.

SHAPLEIGH *v.* CHESTER ELECTRIC LIGHT & POWER CO.

(*Circuit Court, E. D. Pennsylvania.* October 18, 1891.)

EXAMINERS—POWER TO ADJOURN HEARING.

The action of an examiner in adjourning the hearing after a witness is tendered for cross-examination is final, and, if the party who offered the witness refuses to produce him for cross-examination, his testimony in chief will be suppressed.

In Equity. On motion to require the production of a witness, or to suppress his deposition.

An examiner, after the direct examination of a witness offered by the respondent was finished, and before his cross-examination was commenced, adjourned the hearing until the following day. On that day he again adjourned it because of the illness of one of the complainant's counsel and the absence of the other. On the day appointed the respondent declined to produce the witness for cross-examination.

M. W. Collet and *John R. Bennett*, for complainant.

William C. Strawbridge and *J. Bonsall Taylor*, for respondent.

ACHESON, J. The examiner's ruling is final; the witness must be produced within 30 days for cross-examination, or his deposition be stricken out.

BOMAN *et al.* v. BOMAN.

(*Circuit Court, D. Washington, N. D.* October 27, 1891.)

WILLS—VALIDITY—DISINHERITING CHILDREN.

Code Wash. § 1325, providing that, when a testator dies "leaving a child or children * * * not named or provided for" in his will, he shall be deemed to have died intestate as to them, was intended, not to prevent children from being disinherited, but to require that the intention to disinherit them should clearly appear; and hence a will which gives the testator's heirs one dollar each, and the bulk of his property to his wife, makes a valid disposition of his property.

In Equity. On demurrer to bill.

Suit by Albert T. Boman and another plaintiff against Mary E. Boman to set aside a will.

Andrew F. Burleigh, for plaintiffs.

Junius Rochester and *Lewis & Gilman*, for defendant.

HANFORD, J. The complainants are children of George M. Boman, who died testate in the city of Seattle in December, 1890, and the object of this suit is to annul his last will and testament as to them. By said will, the testator, after making a bequest of one dollar to each of his heirs, gave and devised all the residue of his estate to the defendant, who is his widow. Under the laws of this state, an adult person of sound mind may, subject to certain specified limitations, make testamentary disposition of all his or her property, real and personal. Section 1325 of the Code contains the restrictive provisions which it is claimed render this will invalid as to the complainants. It provides that if any person make his last will, and die, leaving a child or children, or descendants of a child or children, not named or provided for in such will, every such testator, as to such child or children or their descendants, shall be deemed to die intestate, and such child or children or their descendants shall be entitled to share in the division of the estate of the testator, real and personal, as if he had died intestate. Substantially similar statutory provisions have been passed upon in a number of cases by the supreme courts of New Hampshire, Missouri, Oregon, and California; and, without reviewing the decisions in detail, it is enough to say that they all agree in holding that an owner of property who has children, or descendants of children, is not by such a statute deprived of the right to dispose of his property as he pleases. The term "provided for," as used in the statute, does not import an obligation on the part of a testator to leave his children a fortune, or to supply their material wants, or even give them any substantial share of his estate, whether it amounts to much or little. A mean-spirited wealthy man may leave his child destitute, provided he does it intentionally, and expresses such intention clearly in his will, without rendering such will nugatory under the provisions of this statute. The decisions also hold that it is only necessary for a testator to make his will express clearly his intention in regard to his children, in any form of language sufficient for the purpose. It is