

POWER—MARRIED WOMAN—DIRECTION TO EXECUTORS TO PAY DEBTS—APPOINTMENT TO EXECUTORS—CHARGE OF DEBTS ON PROPERTY APPOINTED.

*In re DeBurgh Lawson, DeBurgh Lawson v. DeBurgh Lawson*, 41 Chy.D. 568, a married woman who died in 1880, having a power of appointment in a colliery property, by her will directed her executrixes to pay her debts, and by virtue of the power appointed the colliery property to her executrixes upon certain trusts for the benefit of her children equally for life, and after the death of the survivor for the benefit of her grand-children equally. The testatrix was indebted at the time of her death, and the question arose whether these debts were charged on the colliery property. Stirling, J., on the authority of *Tanqueray-Willaume and London*, 20 Chy.D. 465, held that they were so charged.

MORTGAGEE—SALE—INCORRECT PARTICULARS—MISTAKE—COMPENSATION—PUISNE INCUMBRANCER.

The only remaining case to be noted in the Chancery Division is *Tomlin v. Luce*, 41 Chy.D. 573, in which Kekewich, J., appears to us to have arrived at a not very equitable conclusion. Mortgagees, acting under a power of sale, offered the mortgaged property for sale; by a mistake on their part in the particulars the roads on the property were stated to be kerbed. The vendors declined to complete without compensation, and the sale was completed, compensation being allowed, which it was admitted was reasonable. The present action was brought by second mortgagees for an account against the first mortgagees, and it was held that in the taking of the account the latter were chargeable with the sum allowed as compensation. Compensation for misdescription is allowed to a purchaser, as we understand it, on the principle that by reason of the misdescription the purchaser has been induced to give a larger price than he would have done had there been no misdescription; and the compensation is fixed at such sum as will fairly reduce the price to the figure that would have been given had there been no misdescription. If this is a correct view, we fail to see that there is any equity in giving a second mortgagee the benefit of that part of the price, which the mortgagee has been required to refund, by reason of the misdescription of the property.

We Proceed now to the Appeal Cases for August:—

SHIP—CHARTER-PARTY—MARGINAL NOTE—GUARANTEE AS TO SHIP'S CAPACITY—REPRESENTATION AS TO CARGO.

*Mackill v. Wright*, 14 Appeal Case, 106, is the first calling for attention. In this case the question was, whether or not a charter-party guaranteeing the capacity of the vessel, could be qualified in its construction by a marginal note, made by consent of the parties, as to the size of the machinery intended to be carried as part of the cargo. By the charter-party in question, the vessel was to proceed to Glasgow and load all such goods, etc., as the charterers should tender, not exceeding what she could reasonably carry. It was provided that the freight should be a lump sum of £2,200, and the owners guaranteed that the vessel should carry not less than 2,000 tons dead weight, and should the vessel not carry the guaranteed dead weight there was to be a proportionate deduction from the freight. The cargo intended