

two of them was valid. As regards 300 shares in respect of which Kennedy was claimed to be liable, he admitted that he had applied for them, and had received an allotment of them. By the company's allotment book it appeared that the 300 shares were allotted to him on Sept. 20th, 1888, but no minutes were kept after August 20th, 1888. At the time the company was ordered to be wound up, Kennedy appeared on the register as holder of 500 shares. As Kennedy was a contributory in respect of 200 shares it was held that under section 154 of the Act, the allotment book was *prima facie* evidence against him of an allotment of the 300 shares, and, coupled with his admission, threw upon him the burden of proving that the allotment was invalid which he had not discharged.

WILL—CONSTRUCTION—LEGACY—GIFT TO NEXT OF KIN OF PERSON DEAD AT DATE OF WILL—PERIOD OF ASCERTAINMENT OF CLASS.

*In re Rees, Williams v. Davis* 44 Chy. D., 484, Stirling, J., was called on to construe a will whereby a testatrix, who was a widow, bequeathed her personal estate "to such person or persons as would have become entitled to my said husband's personal estate under and by virtue of the Statute of Distributions had he died intestate, and without leaving any widow him surviving." The statutory next of kin at the time of the husband's death were M. S. and R. R., who were both alive at the date of the will, but M. S. predeceased the testatrix. The learned judge came to the conclusion that the words "without having any widow him surviving" took the case out of the general rule laid down in *Wharton v. Barker*, 4 K. & J., 483, 502, and that the persons to take must be ascertained at the death of the husband, and consequently that the share of M. S. had lapsed.

VENDOR AND PURCHASER—MORTGAGEE SELLING UNDER POWER—OFFER TO CONCUR IN SALE BY PARTIES INTERESTED IN EQUITY OF REDEMPTION—WAIVER OF NOTICE.

*In re Thompson and Holt*, 44 Chy. D., 492, mortgagees had sold under a power of sale in their mortgage, but they had not given the notice required, but the sale was had with the approval of the parties interested in the equity of redemption, subject to a condition of sale which stipulated that the purchaser should accept a conveyance from the vendors without the concurrence of any other persons. Subsequently, upon an objection being raised by the purchaser to the right of the vendors to sell under the power without notice, the parties interested in the equity of redemption agreed to concur in the sale. Upon an application under *The Vendors and Purchasers Act* it was held by Kekewich, J., that the parties interested in the equity of redemption had in effect waived notice, but the order affirming the Chief Clerk's certificate in favor of the title was prefaced with a declaration that the owners of the equity of redemption were willing to concur in the sale, and that the vendors undertook, at their own expense, to procure them to join in the conveyance.

TRADE MARK—WORDS CALCULATED TO DECEIVE.

Turning now to the Appeal Cases we find in *Eno v. Dunn*, 15 App. Cas., 252, that the House of Lords have reversed the judgment of the Court of Appeal (41