appoint, and in default of appointment upon trust for such persons as would be entitled to receive the sum had she died intestate, absolutely owning the property.

By another clause, certain shares in the Canada Permanent Loan Company go to the trustees in substantially the same terms; the power of appointment, however, being by will only. The grandniece now claims to be entitled to both the realty and personalty absolutely.

After careful consideration, I think she is right in her contention. In Farwell on Powers, 2nd ed., p. 52, it is said that "if an estate for life be first given and a power of disposition by deed or will added, this does not amount to an absolute gift, so as to vest the property in the donee for an estate that will devolve upon his representatives, if he do not exercise his power of appointment;" but it seems clear that when the testator goes further and provides that realty shall pass, in default of appointment, to the heirs or personalty to the executors, then the whole estate at once vests in the beneficiary.

In re Onslow (1888), 39 Ch. D. 622, shews that the fact that the beneficiary is a married woman, and the property is given for her separate use, makes no difference.

I cannot help feeling that this is but another case added to the long list in which the effect of the rule in Shelley's case is to disappoint the testator's intention. With every desire to give effect to the intention, I find myself unable to get away from the rule of law, which appears to me to be plain and conclusive.

The costs of both parties will come out of the estate.

ROBINSON BROTHERS CORK CO. LIMITED v. PERRIN & CO. LIMITED —MIDDLETON, J., IN CHAMBERS—SEPT. 28.

Summary Judgment—Motion for—Rule 56—Company-defendant—Affidavit of Principal Officer — Information and Belief — Sufficiency — Cross-examination — Disclosing Defence —Amendment of Writ of Summons.]—Appeal by the plaintiff company from an order of Mr. Holmsted, Senior Registrar, refusing summary judgment: ante 43. MIDDLETON, J., said that the case was near the border-line, but he thought that it was one in which the plaintiff company should go to trial. Everything was too indefinite and uncertain to justify the granting of a summary judgment. Appeal dismissed. Costs in the cause. J. I. Grover, for the plaintiff company. J. R. Rumball, for the defendant company.