ing to the Statute of Distributions? I think this case is to be decided by authority, and by authority only. No doubt the word "heir" has a technical meaning, i.e., the heir-at-law of real estate, and if there is nothing in the will to show a contrary intention the heir-at-law must take the property as persona designata." It is therefore necessary in order to sustain the widow's claim that we should find something in the will clearly indicating an intention on the testator's part in using the word "heirs" not to mean the heirs-at-law but a different class of persons altogether.

The scheme of this will, stated shortly, is this: Eliminating the provisions made for his widow, the testator for the benefit of his five daughters, divided up certain real and personal property into five parts, one for each daughter. Each part was estimated to be worth $50,000 and they were mentioned and described in five separate schedules distinguished respectively by the letters A, B, C, D, and E, the property comprised in Schedule A having been allotted to Mrs. Almon and representing the fund now ready for distribution. On the death of a daughter the property comprised in her schedule was to be disposed of by the trustees in the manner already mentioned. These properties as they are described in the schedules, consisted principally of real estate—that in Schedule D seems to have been entirely so—but the others consist of both real and personal. The trustees had power to vary investments and with the consent of the daughter to sell her real estate and invest the proceeds of such sale, as well as moneys received by way of insurance against loss by fire, in mortgage and other securities. So that it is wholly unlikely that the nature of these scheduled properties would remain to-day as they were at the testator's death over thirty years ago. I cannot think that the testator had any intention in providing for the final distribution of his estate—for the residuary estate is subject to the same trusts—that the question as to who should take it under his will should depend in any way upon the nature of the property as it might happen to be at the date of distribution. He treated real and personal property as one fund and not separately. His intention clearly was that the whole fund should go to the one class irrespective of its nature. It was one-third of the whole property over which the daughter had a power of appointment and in transferring that to the appointee the trustees were under no obligation to divide it one-third of the personal and one-third