

after her death to her husband if he survived her for his life, and after the death of the survivor to hold the trust fund for the child or children of the marriage as the husband and wife, or the survivor should by deed or will appoint, and in default of appointment, for the children equally who should attain 21 or marry; and if there should be no child or children who should attain 21 or marry, the trustees were to hold the fund upon such trusts as the wife should appoint, and in default of appointment for her statutory next of kin who would be entitled at her death "if she had died intestate possessed thereof without having been married." The wife made no appointment and died intestate, leaving three children who died in infancy, and no other children. In construing the last clause creating the ultimate trust the question was whether the deceased twins were excluded. Kekewich, J., thought they were not, and conceived that *Wilson v. Atkinson* (1864) 4 D. J. & S. 455, had laid down the rule that in construing such clauses the issue of the marriage were never to be excluded as next of kin; but the Court of Appeal (Williams, Romer, and Cozens-Hardy, L.JJ.,) considered that that case laid down no such general rule and held that the words in question ought *prima facie* to be construed according to the natural meaning, which would exclude the issue of the wife, unless there be something in the contract, or the circumstances of the case, which shews that the words were not intended to bear that meaning. In arriving at this conclusion the Court of Appeal adopt the view expressed by Jessel, M.R., in *Emmin v. Bradford* (1880), 13 Ch. D. 493, and by Eady, J., in *re Smith* (1903), 1 Ch. 373 (see ante, p. 356) and reject the contrary view expressed by Fry, J., in *Upton v. Brown* (1879), 12 Ch. D. 872, and by Kekewich, J., in *re Mare* (1902), 2 Ch. 112.

HUSBAND AND WIFE.—PURCHASE OF LAND WITH WIFE'S MONEY. CONVEYANCE TO HUSBAND—RESULTING TRUST FOR WIFE IN LAND PURCHASED BY HUSBAND WITH WIFE'S FUND PRESUMPTION.

In *Mercier v. Mercier* (1903) 2 Ch. 98, the facts were as follows: In 1883 the defendant married Colonel Mercier. They kept a joint bank account composed chiefly of the wife's money, on which both were accustomed to draw. In 1891 they bought some land which was paid for out of the joint account and was conveyed to the husband. He died intestate in 1901 leaving his wife surviving. His heir-at-law claimed the land; the wife on