

sons who under the Statute of Distribution would be the next of kin of his daughter if she had died unmarried, and the question was whether such persons took as joint tenants or as tenants in common. Neville, J., decided that the reference to the statute was operative also to determine the mode in which the beneficiaries would take, and as next of kin under the statute take as tenants in common, so in like manner did the beneficiaries take under the will.

TRUSTEE—INVESTMENT—BREACH OF TRUST—HAZARDOUS SECURITY
—DEPRECIATION—VALUATION—NEGLIGENCE—56-57 VICT. c.
53, s. 8—(R.S.O. c. 130, s. 8)—59-60 VICT. c. 35, s. 3—(62
VICT. (2) c. 15, s. 1, ONT.).

Shaw v. Cates (1909) 1 Ch. 389 is another case in which beneficiaries under a will charged trustees with liability for loss occasioned by improper investment of the trust fund. The defendants relied on the protection of 56-57 Vict. c. 53, s. 8 (see R.S.O. c. 130, s. 8), but it appeared that the valuer appointed to make the valuation of the mortgaged property had been suggested by the mortgagor and was paid by him to the knowledge of the solicitors of one of the trustees, though not apparently to the knowledge of the other trustee or her solicitor. This being the case Parker, J., held that the valuer was not one "employed independently of any owner of the property," and therefore the trustees were not within that section. The trustees also relied on the protection of 59-60 Vict. c. 35, s. 3 (see 62 Vict. (2) c. 15, s. 1, Ont.), but the learned judge held that although the trustees had acted honestly, they had not acted reasonably in acting on the report of the surveyor, which in the circumstances did not warrant in his judgment as large an advance as had been made. Both of the unfortunate trustees, one of whom was a woman, appear to have trusted wholly to the advice of their respective solicitors, and not to have exercised any independent judgment in the matter such as the legal gentleman known as "the ordinary prudent man" would have exercised in dealing with his own money. Revising the valuer's report therefore in the light of subsequent events, the learned judge came to the conclusion that the trustees who had lent two thirds of the value of the property according to his own estimate, had lent too much and that in the circumstances little more than one-half should have been lent, and he therefore held them liable for the difference which amounted to £1,000. He