

a testator bequeathed the residue of his estate to his executors in trust, as to £1,500 (part thereof) to invest and pay the income to his daughter, E. M. Clark, for her life, and after her death, to divide the capital amongst her issue; there was no gift over of the £1,500. E. M. Clark died without issue, and there was, consequently, an intestacy as to the £1,500 which, accordingly, passed to the next of kin, who were four daughters and some grandchildren of the testator. These daughters had received large advances from the testator, and if they were brought into hotchpot the £1,500 would all go to the grandchildren, but Neville, J., held, that there being only a partial intestacy, the Statute of Distribution did not apply, and the advances were not liable to be brought into hotchpot; and he also held, that the case was not within the Executor's Act, 1830, as the £1,500 was held by the executors not as executors, but as trustees.

EMPLOYER AND WORKMAN—INJURY TO WORKMAN CAUSING
DEATH—AGREEMENT BETWEEN EMPLOYER AND WORKMAN—
CLAIM BY DEPENDENT.

Williams v. Vauxhall Colliery Co. (1907) 2 K.B. 433 is also a case under the English Workmen's Compensation Act, 1897, which may also be useful in considering the Fatal Accidents Act (R.S.O. c. 166). In this case after an accident in the course of his employment the workman made an arrangement with his employer out of Court whereby he received for a certain time after the accident a weekly payment, and then, believing himself to have recovered, returned to work, nothing being said on either side as to the continuance or cessation of the compensation. He subsequently died from the effects of the injury. These circumstances the Court of Appeal (Cozens-Hardy, M.R. and Barnes, P.P.D. and Kennedy, L.J.) held afforded no evidence that the workman had abandoned his right against his employer to further compensation; and, even assuming that the workman had abandoned his right, his dependents had a separate right to compensation of which he could not deprive them. But, subject to this, the Court held that the employer was not liable for more than the maximum compensation allowed by the Act, and was entitled to credit for the sums advanced to the deceased workman.