died, the money which had been thus reinvested in consols was paid back to the executors and trustees of the testator's estate, and was claimed, on the one hand, by the devisees of the real estate of which it was part of the proceeds, and, on the other hand, by the residuary legatees of the personal estate. Kekewich, J., held that the devisees of the realty were entitled to the fund, and that the will and other documents executed to carry out the transaction in reference to the transfer of the consols to the testator disclosed "a contrary instruction" within the meaning of of the statute not to charge the mortgage land with the sums charged thereon; the transaction clearly indicating that the real estate was mortgaged merely as an indemnity to the trustees, and not as a security for the money as a debt or loan.

PRACTICE—SHARES IN LIMITED COMPANY—"PERISHABLE CHATTELS"—ORDER FOR SALE PENDING ACTION—ORD. L., R. 2—(ONT. RULE 1133).

Evans v. *Davies*, (1893) 2 Ch. 216, is a decision of Kekewich, J., holding that shares in a limited company are "goods" within the meaning of Ord. l, r. 2 (Ont. Rule 1133), and may be ordered to be sold pending the action when, for "any just and sufficient reason," it is made to appear to the court desirable to have them sold at once. The action was brought by the plaintiff to recover the price of the shares in question, and he claimed an interim injunction to restrain the defendant from dealing with the shares. The defendant made a cross motion for the immediate sale of the shares on the ground that they had gone up in value, and if sold at once would realize sufficient to pay the plaintiff's claim. The court held this to be a sufficient reason for ordering the sale.

PRACTICE—PARTITION ACTION—COSTS OCCASIONED BY INCUMBRANCES ON SHARES.

In *Catton* v. *Banks*, (1893) 2 Ch. 221, Kekewich, J., refused to follow *Belcher* v. *Williams*, 45 Ch.D. 510. The action was for a partition of real estate which was divisible into three shares, two of which were incumbered, and the third unincumbered. North, J., in *Belcher* v. *Williams*, held that each incumbrancer on a share was entitled to costs out of the estate. The result of that decision in this case would have been to give six sets of costs out of the estate. Kekewich, J., however, determined that only one set of costs should be allowed in respect of each share. This seems to agree with the conclusion arrived at by Vankoughnet, C., in *McDougall* v. *McDougall*, 14 Gr. 267.