

in question had been made for the purpose of enabling the defendant directors to keep control of the company. Peterson, J., who tried the action, held that the discretionary power of directors to issue shares is of a fiduciary character, and can only be exercised in the bona fide interest of the company; and that in the circumstances the allotments in question were not made in the bona fide interest of the company and were therefore null and void, and he so declared.

SETTLEMENT—SPECIAL POWER OF APPOINTMENT—LEGACY UPON TRUSTS OF SETTLEMENT — ACCRETION OR INDEPENDENT SETTLEMENT—GIFT OVER TO A CLASS—DATE WHEN CLASS TO BE ASCERTAINED—WILLS ACT, 1837 (1 VICT., c. 26), ss. 1, 24—(R.S.O. c. 120, s. 30.)

*In re Paul, Paul v. Nelson* (1920) 1 Ch. 99. By a deed of settlement made by one Paul in August, 1910, certain funds were settled on usual trusts for his daughter Bridget with a gift over in default of her issue (which happened) for the children of his three other children on attaining twenty-one or marriage. The settlement empowered Bridget (then a widow) to appoint one-half of the trust funds in favour of any husband who might survive her during his widowhood. On the same day Paul made his will whereby he bequeathed £20,000 to the persons who at his death should be the trustees of the settlement "to be held upon the trusts, etc," in such settlement declared concerning the property thereby settled and so that such trusts, etc., should "take effect in relation to the said sum of £20,000 in the same manner in all respects as if such sum had formed part of the property originally settled by such indenture." Paul's three other children were married and at the time of his death in 1917 he had several grandchildren, Bridget having married one Nelson died in 1918 and by her will, after reciting the settlement, appointed one-half of the income "of the trust fund thereby settled" to her husband during widowhood. Her surviving husband claimed one-half of the income of the whole trust fund including the £20,000; and there were two grandchildren who had attained 21 who claimed immediate payment of their shares. Upon an originating summons obtained for the purpose of obtaining an adjudication on these questions, Lawrence, J., held that the effect of Paul's will was to make the £20,000 an accretion to the funds of the settlement and not to create a new independent settlement and that therefore the husband was entitled to the income of the whole trust fund including the £20,000. He also held that the class of grandchildren to take