

ENGLISH CASES.

EDITORIAL REVIEW OF CURRENT ENGLISH
DECISIONS.

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MORTGAGE—DEVOLUTION OF MORTGAGED ESTATE—MORTGAGEE'S REPRESENTATIVES IN POSSESSION—REALTY OR PERSONALTY—REAL PROPERTY LIMITATIONS ACT, 1874 (37 & 38 VICT. c. 57), s. 7—(R.S.O. c. 133, s. 19.)

In re Loveridge, Pearce v. Marsh (1904) 1 Ch. 518. A mortgagee who died in 1864, by his will, made his wife executrix and tenant for life of his estate, and subject thereto, died intestate, leaving his brother Isaac his heir. The widow and Isaac were entitled to the testator's personalty. The widow went into possession of the mortgaged property and died after having been in possession from 1864 to 1900. The mortgagor's title was barred on 1st January, 1879. Isaac, the brother, died in 1880 intestate; he was insane at the testator's death and continued so until his own death. The present action was brought for the administration of the testator's estate, and it became necessary, therefore, to determine in what character the mortgaged estate was to be regarded. Buckley, J., had previously held S.C. (1902) 2 Ch. 859 (noted ante vol. 39, p. 186), that though the land descended to Isaac as heir, he held as trustee for the widow who was entitled to the mortgage debt as executrix, and that Isaac was not discharged from his trusteeship when the mortgagor's title was barred; and that the land devolved on the executrix as personalty; and he now held that, as the mortgagor was barred on 1st January, 1879, when s. 7 of the Real Property Limitations Act, 1874 (R.S.O. c. 133, s. 19) came into force, that from that date Isaac's one half share of the land was beneficially vested in him until the time of his death as realty, and descended on his death to his heirs.

WILL—DEVISE TO WIFE OF ATTESTING WITNESS—DEVISE TO DAUGHTER OR HER CHILDREN—WILLS ACT, 1837 (1 VICT. c. 26), s. 15.—(R.S.O. c. 128, s. 17.)

Alpin v. Stone (1904) 1 Ch. 543. The Wills Act s. 15 (R.S.O. c. 128, s. 17), as is well known, has the effect of invalidating gifts made by a will to an attesting witness or the husband or wife of an attesting witness. In the present case the testator gave a life estate to his widow and subject thereto one half of his estate to his daughter