

did what was equitable, but the answer was that the head lessor had no equity as against the sub-lessee. The Court of Appeal (Collins, M.R., and Rigby and Romer, L.JJ.,) affirmed the judgment of Stirling, J.

WILL—CONSTRUCTION—SURVIVOR.

Inderwick v. Tatchell (1901) 2 Ch. 738, is a case upon the construction of a will whereby the testator gave seven portions of his estate to his seven children for life, and after their respective deceases to their respective children, then living absolutely, and he provided that, in case of any child dying without children, the shares of such child, both original and accruing under this clause, should go to their surviving brothers and sisters for life, and after decease to their respective children. All of the seven children survived the testator; three died without issue, then one son died leaving children, and then a daughter leaving no children. The children of the deceased son claimed to participate in the deceased daughter's share on the ground that the word "surviving" ought to be read not in its primary sense of surviving in person, but in its secondary sense of surviving in stock. Kekewich, J., however, declined to give effect to that contention, and the Court of Appeal (Lord Alverstone, C.J., and Williams and Romer, L.JJ.,) agreed with him.

PRACTICE — COSTS — TAXATION — CO-DEFENDANTS — LIABILITY OF ONE DEFENDANT FOR ALL PLAINTIFF'S COSTS.

In *Kelly's Directories v. Gavin* (1901) 2 Ch. 763, the plaintiffs sued two defendants to restrain an infringement of copyright. By the judgment an injunction was awarded against one defendant, who was ordered to pay the plaintiffs "their costs of this action"; no relief was awarded or costs given to or against the other defendant. On taxation, the plaintiffs' costs, as against the other defendant, were allowed, which was objected to on the ground that the defendant against whom judgment was pronounced was in this way made to pay the costs of the plaintiffs' unsuccessful attempt to make the other defendant liable. Byrne, J., sustained the taxing officer's ruling, holding that under the terms of the judgment the plaintiffs were entitled to these costs, and that if such costs were intended to be excluded the judgment should have been so framed.