

provide that the calls should not be payable on such shares at the time when calls were payable on all other shares, but Cosens-Hardy, J., was of opinion that as the application for, and allotment of the shares, had been made on the faith of the agreement that the calls should not be made, it would be a breach of the contract now to require the defendant directors to pay calls, and he dismissed the action.

**LEASE—CONSTRUCTION—RIGHT OF WAY—MISDESCRIPTION—MISTAKE—REFORMATION OF DEED.**

In *Cowen v. Truefitt* (1899) 2 Ch. 309, the Court of Appeal (Lindley, M.R., Jeune, P.P.D., and Rigby, L.J.) affirmed the decision of Romer, J. (1898) 2 Ch. 551, noted ante p. 64, but on a different ground to that taken by him. It may be remembered that the plaintiff was lessee of rooms on the second floor of Nos. 13 and 14 Bond Street, together with right of access to and from the premises, "through the stairway and passages of No. 13;" there was in fact no staircase on 13 leading to the demised premises, but there was such a staircase in No. 14. Romer, J. treated the case as one of *falsa demonstratio*, and held that the description of the staircase as being in No. 13 might be rejected. The Court of Appeal on the other hand, considered it was a case of common mistake, and that the intention of the parties was that the lessee should have the use of the staircase in No. 14, and as the court was thus able to see what the parties really intended, the doctrine of *falsa demonstratio* did not apply; but the lease was ordered to be rectified in accordance with the real intention of the parties, by the substitution of the staircase in No. 14, for that in No. 13, which was in effect saying that Romer, J. had reached the right result, but by a wrong process of reasoning.

**WILL—GIFT TO A CLASS—GIFT "TO A. AND CHILDREN OF B."—DEATH OF MEMBER OF CLASS IN TESTATOR'S LIFETIME—LAPSE—SURVIVORS—PERIOD OF DISTRIBUTION.**

In *re Moss, Kingsbury v. Walter* (1899) 2 Ch. 314, deals with the construction of a will. The testator gave property in trust for his wife, (who survived him) for life, and after her death for his niece, Elizabeth Jane Fowler, and the children of a sister Emily, then living. The testator died in 1873, his niece Elizabeth Jane Fowler having predeceased him, the testator's sister and her four children survived the testator. The question was whether the share