

quired during his lifetime. Whether it would have made any difference if the mortgage had been made after the death of Sharp seems somewhat doubtful. Lord Herschell, L.C., expressed himself as in accord with the view of Wigram, V.C., in regard to the case of *Timson v. Ramsbottom*, 2 Keen. 35, 52, being good law. In that case one of several executors was himself assignee, but his co-executors had no notice of the assignment. After the death of the executor-assignee there was an assignment to a third person, who gave the surviving executors notice, and he was held entitled to priority over the prior assignment to the deceased executor. Lord Macnaghten, on the other hand, does not regard that case as of much weight, because it was appealed, and compromised before the appeal was argued; and, further, because the notice of the first assignment in that case was considered by Lord Langdale insufficient, because each one of the other holders of the fund, being executors, "had separate authority to receive and pay on account of the estate," and he (Lord Langdale) thought that if they had no notice of the assignment they might have made payment without incurring any liability on that account.

C COMPANY—CERTIFICATE OF OWNERSHIP OF SHARES—ESTOPPEL—DAMAGES.

*The Balkis Company v. Tomkinson*, (1893) Q.C. 396, is an appeal from the decision of the Court of Appeal, (1891) 2 Q.B. 614 (noted *ante* vol. 28, p. 38, as *Tomkinson v. Balkis*). The facts were simple. A person who, in fact, did not own any shares in the defendant company executed a transfer purporting to transfer certain shares in the company. The transferee, acting in good faith, presented the transfer, which was accepted by the company, and they issued a certificate to the transferee certifying that he was the owner of the shares in question. On the faith of this certificate he sold the shares, but on his transferee presenting his transfer to the company they refused to accept on the ground that the transferor was not the owner of the shares, and that the certificate had been issued by mistake, and the question was whether or not they were estopped by their certificate. The House of Lords (Lords Herschell, L.C., Macnaghten and Field) agreed with the Court of Appeal that they were, and the transferor having, in consequence of the refusal of the company to register his transfer, purchased other shares in the market in