

by the wife's covenant. Subject to his widow's interest for her life in the £4,700, it was held in trust for the husband absolutely—and the ultimate residue of the wife's fund was held in trust for her statutory next of kin—there being no issue of the marriage; the question therefore resolved itself into the simple point whether the trustees of the marriage settlement ought to take proceedings to enforce the covenant and agreement to settle the after-acquired property for the benefit of the next of kin of the husband and wife respectively, and Eve, J., held that they ought not, because the next of kin were not within the consideration of the marriage, and were mere volunteers, and as such not themselves entitled to enforce the covenant and agreement, and therefore the Court ought not to direct the trustees to take proceedings to enforce the covenant and agreement so as to do indirectly, what it would not do directly.

ARBITRATION—ACT GIVING ARBITRATORS FULL DISCRETION AS TO COSTS—POWER TO ORDER SUCCESSFUL PARTY TO PAY COSTS.

*Gray v. Ashburton* (1917) A.C. 26. In arbitration proceedings under a statute which gave the arbitrator discretion as to costs, and which directed that, in the exercise of such discretion, the arbitrator was to take into account, *inter alia*, "the reasonableness or unreasonableness of the claim of either party in respect of amount or otherwise," the Court of Appeal (1916) 2 K.B. 353 held that the discretion ought to be exercised as is the discretion of the Court in actions, and, therefore, that a successful party could not properly be ordered to pay costs. The House of Lords (Lords Loreburn, Haldane, Atkinson, and Shaw) hold that the discretion of the arbitrator is unlimited, and that, in the absence of proof of misconduct, or want of jurisdiction, the award could not be set aside. In arriving at this conclusion, considerable doubt seems to be thrown on *Foster v. Great Western Ry.*, 8 Q.B.D. 515; and inferentially on *Higgins v. Higgins*, 1916, 1 K.B. 640.