

"agency" or company in liquidation, were found entitled to be paid their claim, in preference and priority to the general creditors of the company, in respect of moneys collected by the agency for the claimants and deposited by the agency in a bank.

J. A. Macintosh, for the liquidator.

A. W. Holmested, for the claimants.

TEETZEL, J.:—The relationship between the Snowball Company and the International Mercantile Agency was clearly that of principal and agent, not that of banker and customer; consequently the money collected was impressed with a trust in favour of the principal. There was no such dealing with it by the agent with the concurrence of the principal as could affect the rights of the principal against the liquidator. The money, being trust property, when collected was deposited in a bank account, where it now remains as part of a balance to the credit of the agent. Such balance is entirely made up of money collected for persons employing the agency as collector, and the sum in question is therefore easily identified and traceable, and, consequently, is subject to a charge in favour of the beneficiary, under the authorities cited by the learned referee, in addition to which the following cases may be referred to: *Foley v. Hill*, 2 H. L. Cas. 28; *Frith v. Cartland*, 2 H. & M. 417; *Hancock v. Smith*, 41 Ch. D. 456; *Mutton v. Peat*, [1900] 2 Ch. 79; *Re Oatway*, [1903] 2 Ch. 356; *Long v. Carter*, 27 A. R. 121, 26 S. C. R. 430.

Appeal dismissed with costs.

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TEETZEL, J.,

MAY 16TH, 1906.

WEEKLY COURT.

RE RUTHERFORD.

*Will—Construction—Joint Life Estate—Remainder in Fee in Common—Rule in Shelley's Case—Gift to Class.*

Motion by executors under Rule 938 for order declaring construction of will of William Rutherford, deceased.

J. B. Dalzell, Galt, for executors.

E. P. Clement, K.C., for John Rutherford and others.

F. W. Harcourt, for infants.