

and the issue of any deceased child to take his or her parent's shares. The will further provided that if a son should at the death of the testator's wife be an undischarged bankrupt his share should be held in trust for his wife and directed that in making the division of the estate any advances made to a son which had not been repaid should be brought into account with interest at 2 per cent. from the date of the advance to the date of the testator's wife's death. The question was whether the effect of these provisions was to release the sons from liability for their respective debts and Sargant, J., held that they were not released, and that they were liable to pay interest thereon to which the widow would be entitled during her lifetime.

ADMINISTRATION—EXECUTORS—ASSETS OF TESTATOR—BUSINESS OF TESTATOR CARRIED ON BY EXECUTORS—NO PROVISION IN WILL FOR CARRYING ON BUSINESS—EXECUTOR'S RIGHT TO INDEMNITY—CREDITORS OF TESTATOR AND CREDITORS OF EXECUTORS—PRIORITY.

*In re Oxley, Hornby v. Oxley* (1914) 1 Ch. 604. This was an administration action in which a question arose as to the respective rights of creditors of the testator and creditors of the executors whose claims had been incurred by the carrying on by the executors of the business of the deceased. There was no provision in the will directing the executors to carry on the business of the testator, but they had done so in order to provide for the support of the testator's widow who was also an executrix. At the time of the testator's death in 1908 he was indebted to the plaintiffs, who knew that the executors had from that time carried on the business and took no steps to prevent them from so doing. In 1912, the executors filed a petition in bankruptcy and were adjudicated bankrupt. The plaintiff then brought the present action and obtained the usual judgment for the administration of the deceased testator's estate. The present proceeding was an application on behalf of certain persons who had become creditors of the executors in carrying on the business. They claimed that the plaintiffs having had knowledge of the business being carried on must be deemed to have acquiesced therein and they claimed to be entitled to priority over the creditors of the testator to the extent which the executors were entitled to be indemnified by the estate for the liabilities incurred in carrying on the business. Joyce, J., dismissed the application, and the Court of Appeal (Cozens-Hardy, M.R., and Buckley and Phillimore, L.JJ.) affirmed his decision, being of the opinion that the knowledge of