

BANKRUPTCY—DONEE OF GENERAL TESTAMENTARY POWER OF APPOINTMENT—EXERCISE OF POWER BY BANKRUPT—DEATH OF BANKRUPT—APPOINTED FUND—CREDITORS—STATUTE OF LIMITATIONS—(21 JAC. C. 16)—(R.S.O. C. 75, S. 49).

In re Benzon Bower v. Chetwynd (1914) 2 Ch. 68. This, although a bankruptcy case, is deserving of attention. One Benzon, who had a general testamentary power of appointment over a fund of £15,000, was adjudicated bankrupt in 1890 and again in 1892; and he was never discharged. He died July, 1911, having executed the power. The present action was by his executors for the administration of his estate which consisted almost entirely of the appointed fund. Certain creditors of the deceased who had proved their claims in the bankruptcy proceedings, claimed to be paid their debts out of the appointed fund. Warrington, J., held that under the Bankrupt Act they could only enforce their claims, if any, through the trustee in bankruptcy, and disallowed their claims. On the case being carried to appeal the respondents claimed that this construction of the Bankruptcy Act was erroneous, whereupon it became necessary for the plaintiff to rely on the Statute of Limitations (21 Jac. c. 16)—(R.S.O. c. 75, s. 49). It was argued that the Statute of Limitations could not be set up in Bankruptcy proceedings, and the Court of Appeal (Cozens-Hardy, M.R., and Buckley, L.J., and Channell, J.) conceded that it could not be set up "in the bankruptcy," but this action was not the bankruptcy, and the statute having begun to run before the bankruptcy proceedings, continued to run in favour of the debtor, and was therefore a bar to the creditors in this action. Taking this view, they did not decide whether or not Warrington, J., was right as to his construction of the Bankruptcy Act.

WILL—CONSTRUCTION—CHARITABLE TRUST—GIFT FOR HOLIDAY EXPENSES OF WORK PEOPLE—GIFT TO CLUB PURPOSES TO BE DETERMINED BY COMMITTEE.

In re Drummond, Ashworth v. Drummond (1914) 2 Ch. 90. By the will in question in this case the testator bequeathed certain shares in a limited company to trustees upon trust to pay the income thereof to the directors of a commercial company "for the purposes of contribution to the holiday expenses of the work people employed in the spinning department of the said company in such manner as the directors in their absolute discretion should think fit," the directors having power to "divide the same equally or unequally between such work people." This bequest Eve, J.,