

of his estate and accumulations should be divided between five named charities, according to the amounts set after their names; the amount set after each name being £100. The annuitants had no interest in the surplus income, and in no event had any right to resort thereto. After paying the annuities a large surplus of income remained, which had been accumulated for over twenty-one years, some of the annuitants being still alive. The testator died in 1865. In 1871, Wickens, V.C., decided that the charities were entitled to the whole residue which remained after payment of the annuities, including the surplus income, and accumulations, but refused then to order it to be paid to them, and directed the trustees to continue to accumulate the surplus income, which had been done. The next of kin of the testator now claimed to be entitled to the whole of the residue, including the surplus income and accumulations which might remain after payment of the annuities and £500 to the charities, contending that the gifts to the charities were limited to £100 each; or, in all events, that, under the Thellusson Act, they were entitled to all accumulations which had been made subsequent to the expiration of twenty-one years from the testator's death. The charities, on the other hand, claimed the residue and all the accumulations, and contended that those made since the expiration of the twenty-one years should be paid over at once, as the trust for the accumulation beyond that period was void under the Thellusson Act. The Court of Appeal (Lindley, Kay, and Smith, L.JJ.) agreed with Wickens, V.C., that the charities were entitled to the whole of the residue of pure personalty, and they also agreed with Stirling, J., who held that the charities were entitled to all the accumulations, and were entitled now to have the further accumulation of the surplus income stopped, and to be paid the surplus annual income as it accrued. According to the views expressed by the Court of Appeal, it would seem that they went even further, and were also of opinion that the charities were entitled to the immediate payment of all the accumulations of income which had accrued since the testator's death, on the ground that the direction to accumulate the surplus income was altogether invalid, as being an attempt to postpone the enjoyment of the surplus, which was repugnant to the absolute gift of it to the charities, and therefore void, but whether or not such an order was made cannot be gathered from the report.