

her estate in respect of the furniture or the proceeds thereof, then she appointed the £713 absolutely in favour of one of her daughters. The furniture referred to in the will had been bequeathed to the testatrix for life by her husband's will, with power to sell it, and on her death the furniture, or the proceeds of the sale of it, were bequeathed to her sons in equal shares. There was no evidence that the appointment had been made in pursuance of any bargain with the sons, or that they knew of it before the testatrix's death. Under these circumstances North, J., held that the testatrix had endeavoured to increase her estate for the benefit of her residuary devisee, who was a stranger to the power, by imposing the condition of the release of their claim to the furniture or its proceeds upon the sons, and that this condition could not be severed from the appointment, and it was therefore void *in toto*, as being a fraud on the power, and the fund went therefore as upon default of appointment.

TENANT FOR LIFE—INCOME—CAPITAL—MORTGAGE—MORTGAGEE IN POSSESSION.

*In re Godden, Teague v. Fox*, (1893) 1 Ch. 292, a testator being entitled to a mortgage on a colliery, at the time of his death, proceedings for foreclosure were taken by his executors to enforce the mortgage, and a receiver was appointed of the colliery, which was a going concern. Proceeds of working the colliery came to the hands of the receiver in the foreclosure action, and were transferred to the credit of an action for the administration of the testator's estate, and the question then arose as between tenant for life and remainderman under the will how those proceeds were to be apportioned. North, J., held that the funds should be apportioned between capital and income on the following principle, viz., that it should be ascertained by computation what amount invested at four per cent. from the time of the testator's death would, with the interest, equal the fund in question; that the amount so to be ascertained should be apportioned as capital, and the balance as income.

TRUSTEE—ACCOUNT—STATUTE OF LIMITATIONS—TRUSTEE ACT, 1888 (51 & 52 VICT., c. 59), s. 8—(54 VICT., c. 19, s. 13 (O.)).

*In re Page, Jones v. Morgan*, (1893) 1 Ch. 304, is a decision under the Trustee Act, 1888 (51 & 52 Vict., c. 59). The action was brought against the defendants as executors and trustees for an account. The plaintiff was entitled to certain residuary estate