

AGREEMENT TO REFER—STAYING PROCEEDINGS IN ACTION—C.L.P. ACT, 1854, S. 11—(R.S.O., c. 53, s. 38.)

In *Lyon v. Johnson*, 40 Chy.D. 579, Kay, J., held that although under the C.L.P. Act, s. 11 (R.S.O., c. 53, s. 38), the Court may, and should *prima facie*, restrain actions in respect of matters which the parties have agreed to refer to arbitration, yet that under that section the Court has a discretion which it is bound to exercise, and under the circumstances existing in this case he refused to grant the stay. The plaintiff and defendant were partners in the surgeons' and apothecaries' business, and the partnership articles provided that presents and gratuities from patients were to be regarded as partnership profits. A lady, who had been a patient of the firm, had died, leaving her residuary estate, amounting to £8,000, to one of the partners. The partner to whom the legacy was left claimed that this bequest was left as an act of private friendship and not in consequence of the testatrix being a patient, and was, therefore, not within the partnership articles; and the learned judge thought that was a question that could be more satisfactorily determined by the Court than by any arbitrator.

SETTLEMENT OF SETTLOR'S OWN PROPERTY—LIMITATION TO SETTLOR FOR LIFE, DETERMINABLE ON ALIENATION.

In *re Detmold*, *Detmold v. Detmold*, 40 Chy.D. 585, a settlor had settled his own property upon trust to pay the income to himself "during his life, or till he shall become bankrupt, or shall assign charge or incur the said income, or shall do or suffer something whereby the same or some part thereof, would, through his act, default, or by operation or process of law, if belonging absolutely to him, become vested in or payable to some other person"; in which event there was a limitation over in favour of the settlor's wife. A creditor having obtained judgment against the settlor, subsequently obtained the appointment of a receiver of the income of the trust estate by way of equitable execution, and the settlor was thereafter adjudicated a bankrupt. A contest then arose between the wife on the one hand and the receiver and trustee in bankruptcy on the other hand, as to whether the limitation over in favour of the wife was valid. North, J., held that it was, and that the husband's interest was forfeited on the appointment of the receiver, and that the trustee in bankruptcy was bound by it because the forfeiture had taken effect before the bankruptcy commenced.

6 ANNE C. 18—CESTUI QUE VIE—EXECUTORY DEVISE.

In *re Pople*, 40 Chy.D. 589, is a case in which the procedure provided by 6 Anne, c. 18, was resorted to. The applicant was devisee of land in case of the death of another without having issue, and it was held in the first place that such a person is one having a claim in expectancy to an estate after the death of a person within the meaning of the Act. The devisee for life had married but deserted her husband, having had no issue. Abraham Fowler had previously purchased her interest. Orders were made under the statute in June and August, 1888, for Fowler to produce the tenant for life, first, at W. church door, and secondly, in Court. She was neither produced, nor proved to be alive. North, J., therefore ordered that she should be taken to be dead.