

WILL — PERPETUITY — PERSONALTY SETTLED ON PERSON WHO
SHALL BECOME ENTITLED TO REALTY — CONSTRUCTION.

In re Atkinson, Atkinson v. Atkinson (1916) 1 Ch. 91. By the will in question in this case real and personal estate was given to trustees, as to the personal estate for sale, and to pay the income thereof to the person, if any, who, under the trusts and limitations of the will, should for the time being be tenant for life of, or otherwise entitled to the possession or receipt of the rents or profits of the realty, until such real estate should become vested in some person who should become adult tenant in tail in possession of such realty and from and after that event as to both capital and income of the personalty upon trust for such last-mentioned person absolutely; and as to the realty upon trust for the testator's brother John for life, and after his death upon trust for the first and every other son of his said brother successively in remainder one after another, according to their seniorities in tail general. It was admitted that the trust of the personalty in favour of John for life was valid; but it was contended that the subsequent trusts were void for remoteness, because the trust in favour of the adult tenant in tail in possession could not be construed as applying only to a tenant in tail by purchase, and with this contention Sargant, J., agreed.

POWER OF APPOINTMENT — LIMITED POWER — APPOINTMENT TO
TRUSTEES FOR OBJECTS OF POWER — TRANSFER OF FUND.

In re Mackenzie, Bain v. Mackenzie (1916) 1 Ch. 125. The decision of Astbury, J., in this case follows the cases of *Burk v. Oldam* (1874), L.R. 19 eq. 16; *Scotney v. Larner* (1886), 31 Ch. D. 380, 386; and *In re Tyssen* (1894), 1 Ch. 56, to the effect that where a person has a power of appointment in favour of a class, and appoints the fund to be paid to trustees in trust for the benefit of the objects of the power, the appointment is valid as far as the beneficial interests are concerned, but that the original trustees must continue to hold and administer the fund; in other words, a limited power to appoint does not include a power to appoint to trustees for the objects of the power. The learned Judge distinguishes the case from *In re Redgate* (1903), 1 Ch. 356, and *In re Adames* (1907), 1 Ch. 695.