

it was held by Kay, J., that the onus lay on those claiming under the husband to prove a gift of the capital sum from the wife to the husband, and that they had failed to do so, and therefore the widow's claim as a creditor must be allowed; but as to the interest which had accrued during the lifetime of her husband, he disallowed the claim as to that.

INTEREST ON COSTS PAYABLE OUT OF AN ESTATE.

In re Marsden's Estate, Withington v. Neumann, 40 Chy.D. 475, Chitty, J., held that where, in an administration action, costs have been directed to be taxed, and paid by the trustees out of a testator's estate, with a direction for the division of the fund after such payment amongst the persons beneficially interested, interest is not, in the absence of special direction, payable on the costs. See *Archer v. Severn*, ante vol. 24, p. 617.

CHAMPERTY—MAINTENANCE—TRUSTEE IN BANKRUPTCY—ASSIGNMENT OF SUBJECT MATTER OF ACTION.

Guy v. Churchill, 40 Chy.D. 481. This was a motion to discharge an order of course to continue proceedings, obtained under the following circumstances: Pending the action the plaintiff became bankrupt, and the trustee in bankruptcy being unwilling to assume the risk of carrying on the action, assigned the cause of action to a creditor in trust for himself and certain other creditors of the bankrupt, on the terms that anything that might be recovered (after deducting actual disbursements) was to be divided in four parts, three of which were to belong to the assignee and one to the assignor. The assignee having obtained an order to continue the proceedings in his own name, the defendants moved to set it aside on the ground that the assignment was champertous; but it was held by Chitty, J., that the principle of the decision in *Scar v. Lawson*, 15 Chy.D. 426, applied, and that the fact that some of the creditors were to carry on the action at their own risk and expense, and to take a larger share of the fruits of the action than they otherwise would have done, did not bring the case within the law against champerty and maintenance, and that the transaction was one permitted by the bankruptcy laws: but apart from the bankruptcy law and the relationship of the parties, the assignment would be void for champerty. At p. 488 he says: "Maintenance is called the genus of an offence, of which champerty is a species"; and at p. 489: "Champerty is but a form of maintenance, though it be maintenance aggravated by an agreement to have part of the thing in dispute. . . . Maintenance when spoken of in the books means unlawful maintenance. But the maintenance of the suit of another is lawful when the persons maintaining have an interest in the thing in variance. For instance, where a chose in action is vested in a trustee, the beneficiaries may, by providing a fund for the expenses of the action, and by other means, not in themselves unlawful, assist in maintaining the suit."

SOLICITOR—COSTS—TAXATION AFTER TWELVE MONTHS AFTER PAYMENT OF BILL—THIRD PARTIES—COSTS IMPROPERLY PAID TO SOLICITOR OUT OF TRUST ESTATE.

In re Jackson, 40 Chy.D. 495, was an application by third parties interested in an estate to have the bill of costs of a solicitor who had been employed by