

SETTLEMENT—POWER TO APPOINT NEW TRUSTEES—SUBSIDIARY SETTLEMENT—POWER IMPORTED BY REFERENCE—APPOINTMENT OF NEW TRUSTEE—EVENT NOT SPECIFIED IN POWER—INVALID APPOINTMENT—TRUSTEE ACT, 1893 (56-57 VICT. c. 53) s. 10, 25, 35 (R.S.O. c. 121, s. 4).

*In re Sichel Sichel v. Sichel* (1916) 1 Ch. 358. This was an application to determine whether the defendants had been duly appointed new trustees under a settlement, and if not, that they might be appointed by the Court under the provisions of the Trustee Act 1893. (See R.S.O. c. 121, s. 4). The case was simple in regard to the facts. In 1882, life policies were assigned to the trustees of a settlement made in 1877 to be held on the same trusts and "with, under and subject to the same powers as in the settlement of 1877 contained." The settlement of 1877 contained a power to appoint new trustees in case of a trustee becoming incapable to act, but did not include the event of a trustee becoming unfit to act. One of the trustees became incapable and the other unfit to act, whereupon the donees of the power appointed the defendants new trustees in their place. Doubts having arisen whether this appointment was valid, this application was made. Reville, J., held that the power to appoint new trustees contained in the settlement of 1877 was imported by reference into the subsidiary settlement of 1882, but on the authority of the decision of Kekewich, J., *In re Wheeler and DeRochon* (1896) 1 Ch. 315, he held that the donees of the power were restricted to the particular event specified in the power, and as the power in question did not extend to the case of a trustee becoming unfit to act, the appointment was bad. The learned Judge, however, expressed his disapproval of that case, and only followed it because it had been treated as an authority since 1896. He was clearly of opinion that the omission of the case of a trustee unfit to act in the settlement of 1877, was not indicative of a contrary intention "within the meaning of the Trustee Act, 1893, s. 10 (5.), as Kekewich, J., had held. We may observe that this sub-sec. 5 does not appear to be incorporated in the Ont. Trustee Act, R.S.O. c. 121 and therefore under that Act the exercise of the power would appear to have been valid and consequently in Ontario this case would not appear to be an authority.

HUSBAND AND WIFE—ALIMONY—ARREARS OF ALIMONY DUE AT HUSBAND'S DEATH—LIABILITY OF ESTATE OF HUSBAND FOR ARREARS OF ALIMONY.

*In re Stillwell, Brodrick v. Stilwell* (1916) 1 Ch. 365. This was an application by originating summons to determine whether a