

whole proceeds to such one; the discretion vested in the trustee being as to the amount and mode of application—not as to the persons to be benefited; and this discretion within these limits the Court would not control.

Coy v. Coy, 267.

2. Money was advanced by the plaintiff for the express purpose of being deposited in a bank in order to meet a cheque of *L. & C.*, given by their agent, *J. H. C.* This cheque never was paid or presented after such deposit, and the amount remained in the bank to the credit of *L. & C.*, who were trustees, claiming no beneficial interest in the money. On a bill filed for that purpose the Court declared that the estate of *J. H. C.*, who had since died, had not any claim or interest in the fund, and ordered the amount together with the interest allowed on the deposit to be paid to the plaintiff.

Gamble v. Lee, 326.

3. The fact that a claim against the estate of a deceased party arose in consequence, or by means of a breach of duty as a trustee, affords no ground for giving such claim a preference over other creditors of the estate, as under the Property and Trusts' Act the claimant can only rank *pari passu* with other creditors.

Brock v. Cameron, 369.

4. On re-hearing the order as reported, ante Vol. XXIV., page 503, disallowing to a solicitor trustee costs other than costs out of pocket in suits to which he was a party reversed. [SPRAGGE, C., *dubitante*, who thought that the rule should be applied to all suits brought by solicitor trustees, and to all costs in those suits.]

Meighen v. Buell, 604.

See also "Limitations, Statute of."

TRUSTEES' RELIEF ACT.

Where a mortgagee proceeds to a sale of the mortgage premises under the power contained in his security, and a surplus of the proceeds remains in his hands after payment of his own claim, and there are adverse claimants to such surplus, he cannot apply under the Trustees' Relief Act to pay such surplus into Court; his proper course is to file a bill of interpleader.

The Western Canada Loan, &c., Co. v. Court, 151.