

ORDE, J.

MARCH 26TH, 1920.

RE MACLAREN.

Will—Construction—Provision for Benefit of Creditors of Son of Testator—Assignment by Son for Benefit of Creditors—Provision Limited to Creditors Entitled to be Paid out of Moneys Coming to Hands of Assignee—Application to Claims Barred by Limitations Act—Effect of Act on Claims Filed with Assignee—Debts Incurred by Son after Assignment.

An application by the Toronto General Trusts Corporation, as executors and trustees under the will of David Maclaren, deceased, and also as assignees for the benefit of creditors of the testator's son James Gordon Maclaren, for the advice and direction of the Court upon a question arising upon the will.

The motion was heard in the Weekly Court, Ottawa.

W. L. Scott, for the applicants.

A. C. Hill, for the Bank of Nova Scotia and John R. Booth, creditors of J. G. Maclaren.

T. D'Arcy McGee, for Samuel McDougall, a creditor of J. G. Maclaren.

H. B. Johnson, for the Pembroke Lumber Company, a creditor of J. G. Maclaren.

ORDE, J., in a written judgment, said that on the 22nd May, 1906, J. G. Maclaren made an assignment for the benefit of his creditors. David Maclaren died on the 7th April, 1916, having made a will dated the 24th June, 1915, of which probate was granted to the applicants on the 10th June, 1916.

The testator by his will divided the residue of his estate into 20 equal shares, and directed the trustees, inter alia, to pay out of the proceeds of 3 of the shares the respective claims of those of the creditors of J. G. M. "who would be entitled to be paid out of any moneys coming into the hands of my trustees in their capacity as assignees for the benefit of creditors of my said son . . . except that my said son . . . shall be at liberty to contest and dispute the claims of any of the said creditors upon grounds other than any statute of limitations; and, if my said son shall notify my said trustees not to pay any one or more of his said creditors, the claim or claims of the creditor or creditors named in such notice shall not be paid unless and until they shall have proceeded to judgment or unless and until my said son shall have pleaded any statute of limitations . . . in answer to any such claim or claims. Any balance of the proceeds of the said 3 shares