tenant in tail, in assumed exercise of a statutory power, appointed the entailed estate for life by way of jointure. It was contended that as no power to devise by will existed until 32 Hen. 8, c. 1, the attempted jointure by will was void, and Joyce, J., so held, but the Court of Appeal (Williams, Romer, and Cozens-Hardy, L.JJ.), reversed his decision, adopting a dictum in *Vernon's* case, 4 Rep. 4a, "although land was not devisable until 32 Hen. 8, yet it is frequent in our books that an Act made of late time shall be taken within the equity of an Act made long before."

WILL—CONSTRUCTION—APPOINTMENT TO USES OF EXISTING SETTLEMENT OR "SUCH AS ARE CAPABLE OF TAKING EFFECT."

In re Finch and Chew (1903) 2 Ch. 486, was an application under the Vendors and Purchasers Act to determine a question arising under a will made in the exercise of a power of appointment. By the will in question the testatrix appointed the lands in question to the uses of an antecedent instrument "or such of them as are capable of taking effect." Some of the trusts declared by the prior instrument were in favour of cestuis que trust who were not objects of the power, or were trusts inoperative by reason of the rule against perpetuities being infringed; and Kekerwich, J., held that these uses or trusts must be treated as excluded from the appointment, as being "incapable of taking effect," which expression was not to be confined to trusts failing by reason of the death of parties or other intervening circumstances, but included those which the law prevented from taking effect.

VOLUNTARY SETTLEMENT—REFUSAL OF TRUSTEE TO ACT—DISCLAIMER BY GRANTEE—REVESTING OF LEGAL ESTATE IN SETTLOR—VALIDITY OF SETTLEMENT—MORTGAGE OF SETTLED PROPERTY—MARSHALLING ASSETS—PRIORITY OF CESTUI QUE TRUST—ESTOPPEL.

Mallott v. *Wilson* (1903) 2 Ch. 494, is an instance of the equity doctrine that a trust shall not fail for want of a trustee. In this case one M. J. Fielden made a voluntary settlement of property, real and personal, in favour of his wife and any child or children he might have, without any power of revocation. W. Carr, to whom the property was granted in trust, refused to accept the distrust and disclaimed all interest. The settlor subsequently executed a mortgage on part of the settled property. He also executed another voluntary settlement of the property covered by the prior settlement upon different trusts. The settlor having died, his executors paid off the mortgage. In the administration