WILL—REMOTENESS—INVALID TRUST FOR SALE—CONVERSION—REAL OR PERSONAL ESTATE—ELECTION.

In re Daveron, Bowen v. *Churchill*, (1893) 3 Ch. 421, a somewhat curious question arose upon the construction of a will, and one that does not seem to have been covered by any previous authority. A testator, being entitled to a freehold estate which was subject to an unexpired term of forty-nine years, devised it to trustees upon trust to pay the rent to certain persons so long as the lease should run; and "upon the expiration of the lease" he directed the freehold to be sold, and the proceeds equally distributed among three other named persons, ascertainable, as the court found, within the limits of the rule against perpetuities. It was, however, admitted that the trust for sale was void, because directed to be made beyond the time allowed by the perpetuity rule; and the question, therefore, was whether, nevertheless, the legatees to whom the proceeds of the sale were bequeathed were entitled to the land. Chitty, J., held that inasmuch as the legatees would have been entitled, even if the power of sale had been valid, to elect to take the land instead of the proceeds, so, though the power of sale was invalid, the testator's intention might nevertheless be carried out, and that the beneficiaries were entitled to take the property as real estate. See *Goodier* v. *Edmunds*, (1893) 3 Ch. 455, *post* p. 86.

BANKERS—DEPOSIT NOTE—NOVATION—DECEASED PARTNER'S ESTATE, LIABILITY OF.

In re Head, Head v. *Head*, (1893) 3 Ch. 426, there was simply a question whether or not there had been a novation under the following circumstances. A customer of a bank carried on by a firm made a deposit in the bank and received a deposit receipt. The custom of the bank was, when any depositor drew any part of his deposit, to cancel the previous receipt, and issue a new receipt for the balance remaining. A partner having died, a depositor, knowing of the death of the deceased partner, subsequently drew out part of his deposit, and received a new receipt from the surviving partner, who continued the business, for the balance remaining at his credit. It was contended that this amounted to a novation, and that the deceased partner's estate was released. But Chitty, J., held that what had taken place was not sufficient evidence of novation so as to discharge the original debtor from liability. In connection with this case, it may be well to consider the recent case of *Allison* v. *McDonald*, 20 A.R. 695.