And he gave and devised all the rest, residue, and remainder of his estate both real and personal to his executors upon certain trusts. It was held that neither the exception of money and securities for money from the gift to R., nor the gift of all the rest, residue, and remainder of the testator's estate both real and personal, was enough to make the bequest to R. specific.

Bequest in general terms may be specific.

It is noticed elsewhere that a bequest of part of the testator's personal property may be specific, although described in general terms: as a gift of "all my personal estate at B." (*e*).

Distinction between a specific and general bequest.

The distinction between specific and general bequests is important, because the general personal estate of a testator is, unless a contrary intention appears, the fund out of which his funeral and testamentary expenses, debts and pecuniary legacies are payable (*f*); if he bequeaths pecuniary legacies and disposes specifically of all his personal estate, there is no fund out of which the legacies can be paid, and they consequently fail (*g*).

But a testator may indicate an intention that part of his general personal estate is to be primarily liable in exoneration of the rest (*h*).

Residuary bequest.

General bequest.

In most cases a testator, in disposing of his personal property, gives part of it to particular legatees and the rest of it by a general description, and the latter bequest is then called a residuary bequest (*i*). And it is immaterial whether he gives the particular legacies first, or gives them by way of exception: as "I give all my personal estate to A., except my furniture, which I give to B." In the latter case, the bequest to A. would be more properly called a general bequest (*j*).

When some specific things are enumerated.

A case which sometimes presents difficulty is where the testator enumerates some of the things in the residuary bequest. Apart from other indications of the testator's intention, the following rules appear correct:

(1) A gift of residue, including certain property (as "the residue

(*e*) Roper, 242; *Sayer* v. *Sayer*, 2 Vern. 688, and other cases cited in Chap. XXX.

(*f*) *Robertson* v. *Broadbent*, 8 A. C. 812.

(*g*) *Roffey* v. *Early*, 42 L. J. Ch. 472. The debts, &c., are payable out of the property specifically bequeathed in proportion to the value of the various bequests: *Re Hamilton*, [1892] W. N. 74.

(*h*) *Robertson* v. *Broadbent*, supra; and see infra, p. 1044, n. (*r*).

(*i*) The use of the word "residue" is, of course, not required. As to the technical meaning of the word "residue," see *Re Brook's Will*, 2 Dr. & Sm. 362; *Trethewy* v. *Helyar*, 4 Ch. D. 53. It will be remembered that as between tenant for life and remainder-man "residue" has a special meaning: *Allhusen* v. *Whittell*, L. R., 4 Eq. 295. As to the time when the executor becomes a trustee of the net residue, see *Re Smith*, 42 Ch. D. 302; *Re Timmis*, [1902] 1 Ch. 176.

(*j*) *Lysaght* v. *Edwards*, 2 Ch. D. 513, ante, p. 980. *Re Spencer*, 34 W. R. 527; *Blight* v. *Hartnoll*, 23 Ch. D. 218.