

WILL—ANNUITY—DIRECTION TO PURCHASE ANNUITY—DEATH OF
ANNUITANT BEFORE PURCHASE—RIGHT OF ANNUITANT'S RE-
PRESENTATIVE TO CAPITAL VALUE OF ANNUITY.

In re Brunning, Gammon v. Dale (1909) 1 Ch. 276. In this case a testator bequeathed an annuity to his sister for life, to commence from his decease, and directed his executors to provide therefor by buying a government annuity. One quarter's payment of the annuity had been made, but before the annuity was brought the annuitant died. Her personal representative claimed to be paid the capital value of the annuity at the date when the last payment was made, and Neville, J., held that she was so entitled, the only point contested was as to the date at which the annuity should be valued, the residuary legatee contending it should be valued at the time of the testator's death, and the quarterly payment deducted from the value as then ascertained.

TRUST—POWER TO APPOINT NEW TRUSTEE—EXECUTORS OF LAST
SURVIVING TRUSTEE—APPOINTMENT BY DONEE OF POWER—
VALIDITY OF APPOINTMENT—CONVEYANCING AND PROPERTY
ACT, 1881 (44-45 VICT. c. 41), s. 3—(R.S.O. c. 127, s. 4)—
TRUSTEE ACT, 1896 (56-57 VICT. c. 53), ss. 10, 25—(R.S.O.
c. 129, s. 4; c. 336, s. 21).

In re Routledge, Routledge v. Saul (1909) 1 Ch. 280. The validity of an appointment of new trustees was in question. By a separation deed made in 1874 property was conveyed to two trustees upon certain trusts and by the same deed power to appoint new trustees was given to William and Jean Routledge. Both the trustees died, and the executors of the last surviving trustee under 44-45 Vict. c. 41, s. 3 (see R.S.O. c. 127, s. 4), acted as trustees. In 1908 William and Jean Routledge, under the Trustee Act, 1896, s. 10 (see R.S.O. c. 129, s. 4), appointed new trustees, and made the usual vesting declaration (see R.S.O. c. 129, s. 5). The executors claimed that the appointment was a nullity because they were the existing trustees, and though willing to retire could not be displaced except by the order of the court under 56-57 Vict. c. 53, s. 25 (see R.S.O. c. 336, s. 21), but Neville, J., held that although the executors were trustees of the settlement until the new trustees were appointed, the appointment of new trustees under the power was valid and operated forthwith to oust the executors for all purposes of the trust, and that they were bound to hand over the trust property and all muniments of title to the new trustees.