CONVERSION—LAND DEVISED IN TRUST FOR SALE—PARTIAL FAILURE OF TRUSTS—INTESTACY—REAL OR PERSONAL ESTATE.

In re Richerson Scales v. *Heyhoe* (1892), 1 Ch. 379, is a decision of Chitty, J., upon a question which is now not likely to arise very often in Ontario since the Devolution of Estates Act. As regards estates not subject to that Act, however, the case is still of interest. The point was simply this: A testator devised real estate upon trust for conversion into personalty to be held on trusts which, in the result, partially failed. The question was, who was entitled to the proceeds of the land sold, and the land unsold as to which the trust had failed; and the conclusion to which Chitty, J., came was that there was an implied resulting trust in favour of the testator's heir, who would take the property as personalty; and the testator's heir being dead, it passed to his personal representative.

EQUITABLE MORTGAGE BY DEPOSIT—SIX MONTHS' NOTICE—INTEREST IN LIEU OF NOTICE—(51 VICT., C. 15, S. 2 (O.)).

In *Fitzgerald* v. *Mellerish* (1892), 1 Ch. 385, Chitty, J., decides that the rule requiring six months' notice or six months' interest in lieu of notice of payment of a mortgage debt after the time fixed for payment, does not apply to the case of an equitable mortgage by deposit of title deeds, on the ground that the nature of the transaction shows that the loan is intended to be of a mere temporary character, and it is unreasonable to infer that the parties intended notice should be given. In the present case no day was named for payment, and no request was ever made to execute a legal mortgage. Even as regards legal mortgages made after 1st July, 1888, the right to call for six months' notice or six months' interest no longer exists in Ontario unless expressly stipulated for. See 51 Vict., c. 15, s. 2 (O.).

SETTLEMENT—INFANT—ELECTION—MARRIED WOMAN—RESTRAINT ON ANTICIPATION.

Hamilton v. *Hamilton* (1892), 1 Ch. 396, may be regarded as an instance of the application of the equitable maxim that "he who seeks equity must do equity." By an antenuptial settlement made in 1879, while the plaintiff was an infant (and to which the sanction of the court was not obtained), she covenanted to settle after acquired property. She was, among other benefits, given certain life interests without power of anticipation. She was divorced, and brought the present action to obtain a declaration that the covenant was inoperative. Pending the action, she married again. North, J., held that the bringing of the action was not of itself an election to avoid the covenant, but that as it was merely voidable she was bound to elect whether she would avoid it or not, and could not be permitted to defer her election until the result of events should show whether it would be more beneficial for her to do so or not, and he made a declaration that if she elected to avoid the covenant, her interests in other property under the settlement, and also in a house settled by a deed or even date recited in the settlement, ought to be impounded to compensate those who should lose by her election, but that such declaration was not to affect, during her existing coverture, the income she was restrained from anticipating.