

TRUST—TRUSTEE—NEW TRUSTEES—POWER OF APPOINTMENT—TRUSTEE "ABROAD"
 - EXECUTOR TRUSTEE—SOLICITOR.

In re Stamford, Payne v. Stamford, (1896) 1 Ch. 288. Under a will whereof the executors were also trustees there was a power enabling the tenant for life to appoint a new trustee in place of any trustee who should be "abroad." After the personal estate had been fully administered one of the trustees went to reside in Normandy, and had taken a lease of a house there for five years; he came occasionally to England on the business of the trust. The tenant for life appointed his solicitor trustee in the place of the trustee who was thus abroad, and the other trustees, and the trustee thus displaced, now applied for the opinion of the Court as to the validity of the appointment of the new trustee, and Stirling, J., held that the trustee who had gone to reside in Normandy was "abroad," and that the appointment of the solicitor, though not one which the Court would have made, was nevertheless valid; the beneficiaries did not object, and the solicitor, apart from his status as solicitor to the appointor, being otherwise unobjectionable: That as the personal estate had been administered, and as no part of the testator's personal estate remained vested in the absent trustee as executor, his position was merely that of trustee, but that as he might be entitled as personal representative to indemnity out of the real estate, liberty to apply should be reserved to him, notwithstanding the substitution of a new trustee in his place, in case it should turn out that any liability on his part as personal representative still existed.

TRUSTEE—POWER TO APPOINT NEW TRUSTEES—PERSONS TO EXERCISE POWER—
 EVENT NOT SPECIFIED IN TRUST DEED—TRUSTEE ACT, 1893 (56 & 57 VICT.,
 c. 53), s. 10, (R.S.O., c. 110, s. 3.).

In re Wheeler, (1896), 1 Ch. 315, turns upon the construction of the Trustee Act, 1893 (56 & 57 Vict., c. 53), sec. 10; (R.S.O., c. 110, sec. 3); that section authorizes the persons nominated for that purpose by the deed, etc., or if there be no such person then the continuing trustees to appoint a new trustee. In this case, by the instrument creating the trust, two of the cestuis que trust were empowered to appoint a new trustee in