

directed to convey in accordance with the appointment "in the event of my daughter C.S. dying." If she has made no appointment either by will or deed and dies unmarried, there is a gift over; and, if she dies married and leaving children or their issue, there is a gift to them.

The power of appointment being general and exercisable either by will or deed, the daughter is in substance the sole person beneficially entitled; and, when she conveys her life estate and executes a deed of appointment, she is entitled to call upon the trustees to convey in pursuance of her appointment. They hold in trust for her and her appointee.

The only difficulty arises from the direction in the will that the executors shall convey at her death. There is nothing to prevent the appointment being made at any time, and I think nothing to prevent a conveyance of the legal estate at any time to the appointee, who is solely beneficially entitled. What was really in the testator's mind was the fixing of the death of Charlotte as a time when a new duty would arise in the executors, if she had not made an appointment either by deed or will.

I think a good title can be made by a properly drawn conveyance.

KELLY, J., IN CHAMBERS.

FEBRUARY 25TH, 1913.

REX v. DUROCHER.

*Criminal Law—Police Magistrate—Jurisdiction—Prohibition—Indictable Offence—Fraudulently Depositing Paper in Ballot Box at Municipal Election—Municipal Act, sec. 193, sub-sec. 1(b), sub-sec. 3—Criminal Code, sec. 164—Act Prohibited by Statute—Specific Remedy—Remedy by Indictment.*

Motion by the defendant for an order prohibiting the Police Magistrate for the City of Ottawa from proceeding on an information, on the ground of want of jurisdiction to deal therewith.

The information was laid under sub-sec. 1(b) of sec. 193 of the Consolidated Municipal Act, 3 Edw. VII. ch. 19, which provides that "no person shall . . . fraudulently put into any ballot box any paper other than the ballot paper which he is authorised by law to put in." By sub-sec. 3, a person (other than the clerk of the municipality) guilty of any violation of