

**LIMITED POWER**—EXERCISE OF POWER BY WILL—"APPOINT, DEVISE AND BEQUEATH"—EVIDENCE.

*In re Mayhew, Spencer v. Cutbush* (1901) 1 Ch. 677, is a decision of Farwell, J., on a subject which he has made peculiarly his own. A testatrix having a limited power of appointment by will in favour of her nephews and nieces, of a share of personal estate, by her will, which contained no direct reference to the power, made the following disposition: "I appoint, devise and bequeath any real estate and the residue of any personal estate to my trustees upon trust to sell or convert the same into money and to pay and divide the proceeds (after paying my debts and funeral expenses) equally between" four named nephews and nieces, "or such of them as shall be living at my decease." Evidence was held to be admissible to shew that the testatrix had no other power except the limited power above referred to. Farwell, J., held that the will was a good execution of it.

**LEGACY**—APPROPRIATION OF SPECIFIC ASSETS TO PAYMENT OF LEGACY—LAND TRANSFER ACT, 1897, (60 & 61 VICT., c. 65) s. 4, SUB-S. 1—(R.S.O. c. 127, s. 4).

*In re Beverly, Watson v. Watson* (1901) 1 Ch. 681, it became necessary to consider the principle upon which trustees and executors under a will which contains a trust for sale and conversion, have power to appropriate any specific part of the residuary estate towards satisfaction of a legacy, or share of the residue, and whether or not that power is confined to pure personal estate or extends to chattels real and real estate, which is subject to the trust for sale or conversion, and whether or not that power is affected by the Land Transfer Act, 1897, s. 4. (see R.S.O. c. 127, s. 4.) Buckley, J., held that the power of appropriation is in effect an exercise of the power to sell the particular asset to the legatee and to set off his purchase money against his legacy, and that it is unaffected by the Land Transfer Act and applies to chattels real, and it would seem also to real estate which is subject to the trust for sale.

**THELLUSSON ACT** (39 & 40 GEO. III. c. 98)—ACCUMULATION.

*In re Gardiner, Gardiner v. Smith* (1901) 1 Ch. 697, it was decided by Buckley, J., that a direction in a will to apply a yearly sum out of the rents of leaseholds held for a term of more than twenty-one years from the testator's death, in effecting and keeping