or whether the same is still payable to the said Charles Rally'' —counsel certifying that the case ''is a proper one for the advice of a Judge of the High Court of Justice under the Trustee Act.''

The Act referred to is, no doubt, R.S.O. 1897 ch. 129; and the application is made under sec. 29(1) . . . originally passed in 1865 as 29 Vict. ch. 28, sec. 31(C.). . . . Very early it was decided that this statute was not intended to give the Court power, nor did it give the Court power, to determine the rights of parties or any party under the will—it was only ''the opinion, advice, or direction of a Judge . . . on any question respecting the management or administration of the . . . property'' that could be obtained. . . .

[Reference to Re Hooper, 29 Beav. 656; In re Williams, 1 Ch. Ch. R. 372.]

It was necessary to file a bill in such circumstances as exist in this case; but the Judicature Act . . . has provided a cheap and speedy method, without the issue of a writ—by originating notice. Con. Rule 938(*a*) is the Rule to apply—and that provides for notice of motion.

I, with the consent of all parties, as all parties were represented before me, turned the petition for advice into a notice of motion under Con. Rule 938(*a*), and I have heard the parties. .

I am of opinion that the legacy has lapsed.

The testatrix intended to bequeath and did bequeath the chose in action, intended to give Charles Rally the right to receive a sum of $500 from William A. Rally, for there is no pretence that a certain sum of money in coin or otherwise was set apart and was held in custody and possession by William A. Rally as bailee for her. What she means by ''specific money'' is not a ''specific'' heap of coins, but the sum of $500 which she had already specified as not being secured by mortgage.

Then she herself changed the chose in action into a chose in possession, thereby destroying the chose in action. She had ''intended the thing itself to pass unconditionally, and in *statu quo*, to the legatee:'' per Lord Selborne, C., in Robertson v. Broadbent, 8 App. Cas. 812, at p. 815; and she destroyed that ''thing.'' And it does not help that the ''thing'' is changed into something else—that ''something else'' will not pass. . . .

[Reference to Frewen v. Frewen, L.R. 10 Ch. 610.]

I cannot see that the destruction of the right to receive money, by receiving the money in hand, is any less a conversion into something else, so as to adeem the legacy, than the destruction of a ''something else'' in possession of the owner and changing that into the right to receive money.