appointed as to be acting since, because it has been altogether under a void power, and the leases created had no validity, and no power exists to create further leases, and therefore the second Article alone is in force.

This power given to the Trustee to lease is void, as the Complainants allege, because it is to continue for a period longer than that allowed by the rule against perpetuities. This rule is well established, so far as it relates to dispositions of and declarations of trust of property, so that no man can dispose of his estate by deed or will, in such a manner that the parties in whom it may rest shall be deprived of the power of alienating it for more than a life or lives in being and twenty one years after.

But then the strictness of this rule in its operation upon limitations and devises of estates, is mitigated by what it is called the doctrine of cypres. But the question here is not in reference to the application of this rule to a devise of this property, because it is not pretended that the testator has disposed of the property itself, or the issues of it in violation of this rule, for he has given the surplus of rents to accrue from it, to his children in fee simple, and they therefore have the right to alienate or dispose of them absolutely. It is attempted, however, to apply this rule simply to the power to lease conferred upon the Trustees. In regard to such power this rule is by no means so well established. I have looked at all the cases in which the question as to its application to powers has been

discussed, and I find the reasoning of the Courts upon the subject, and their decisions so far as they have gone, most clearly and completely brought together in Lewis on Perpetuities, and his appendix in "vols. 52, and 66. Law Lib, in vol. 52. p. 353, in chap. 25, entitled: "Of the Rule against Perpetuities as it Effects the Limitation, and Exercise of Powers of Sale, Exchange, Partition, Leasing and the like."

This author in introducing the subject says: "Whether any necessity do really exist for restricting powers of the kind under consideration to the perpetuity boundary, has long been a question with writers on real property law; while, on the other hand, the admitted practice of the profession was, for a long series of years, conducted upon the notion, that said powers were valid although unrestricted, so as, on the first mooting of the question, to excite the remark by a great luminary of the law, that a contrary rule would shake half the titles in the Kingdom." The doubt in regard to the validity of these powers was first created by a decision of Ld. Eldon in Ware vs Polhill, 11 Ves, p 257.

It was the general opinion, however, of the most learned men at that time, on this branch of the law, that the validity of such powers was not impeached by this decision, and that it was not necessary to limit their exercise to the established boundaries of remoteness. Sir Ed. Sugden in his work on Powers, 6 Ed, Vol 1, p, 184, vol. 2, p, 194, declared that "the validity of common powers of sale and exchange