

Held, that she took an estate in fee simple. *Re Traynor and Keith*, 469.

3. *Devise—Restraint on alienation—Estate tail.*—A testator, by his will, provided as follows: "I leave and bequeath to my lawful wedded wife, M. E., all my personal property, as also the sole control and management of my real estate * * said estate being composed. * * I leave and bequeath the aforesaid estate to my son J. C., after my wife's death, * * and the said estate is not to be sold or mortgaged by my son J. C., but is to belong to his heirs. Should my son J. C. die without heirs, the estate * * my daughters shall get their maintenance off said estate during * * . I also bequeath the sum of eighty dollars to each of my daughters, * * to be paid out of the said estate by my said son J. C." In an application under the Vendor and Purchaser Act, it was

Held, that J. C. took an estate in fee tail in remainder after an implied life estate in his mother, M. E., subject, however, to the charges of the several legacies to each of the testator's daughters. *Re Colliton and Landergan*, 471.

4. *Life tenant—Power to lease—Trustees.*—A testator gave all his estate, real and personal, to trustees upon trust to allow and give the use thereof to his wife during her life for her support and maintenance, and after her death, to sell and divide the proceeds among his children equally.

Held, that the wife had the right to leave the farm and deal herself directly with the tenant during her life.

In this case, those entitled in re-

mainder were the adult children of the life tenant, and no active duties were cast by the will upon the trustees during the continuance of the life estate, and such being the case, the Court would give effect to the usual incidents of an estate for life by which the tenant can occupy it or let it, or otherwise dispose of it as seems best to that tenant.

Held, therefore, that a lease theretofore made by the trustees without the sanction of the widow, though there was no evidence of *mala fides* on their part, must nevertheless be set aside, and possession of the property given to the widow or her nominee. *Hefferman v. Taylor et al.*, 670.

5. *Period of distribution—Thelusson Act—39-40 Geo. III., ch. 98—32 Geo. III., ch. 1—Vesting subject to being divested—"Heirs-at-law."*—By a will of personal estate, after a life estate had been given to the testator's widow, it was provided by a residuary clause that the property should be sold and the proceeds equally distributed among the testator's nephews and nieces, such bequests on the death of any of them entitled to the same previously to the period of distribution to go to their "heirs at law." At the time of this action, the widow of the testator was still alive, but some of the nephews and nieces had died.

Held, that the will gave a vested interest to such nephews and nieces as should be alive at the time of the testator's death, but the period of distribution was the death of the widow; and the bequest to the nephews and nieces was subject to be divested as to those of them who should die before the said period of distribution, in favour of their representatives, who were entitled to take