the power of disposing of the principal, not to the amount of the allowance. *Macdonald* v. *McLennan*, 176.

2. *Will—Construction—Power of sale—Adverse possession of executor—Statute of Limitations—Express trust—R. S. O. ch.* 108.]—J. by his will devised to H., his wife, all his real estate in L. "during her natural life, for the use and support of herself and family, and in case H. should at any time think proper to sell my said estate, it shall be the duty of my executors to sell the same with her consent, and the proceeds thereof to be distributed as follows," &c.: "But if H. should not think proper to sell my said estate, then the same shall be divided amongst my children, their heirs or assigns, after the death of H., share and share alike." He then nominated P. executor of his will, "with full power and authority to act in the same." J. died in 1838, leaving H. and three children him surviving. P. took out probate. In 1846, H. by deed conveyed her estate in the lands for £150 to P. Under this deed P. obtained possession, which he retained till his death in 1882, when he devised the land to K. in trust for the purposes of his will, of which he made K. executor. H. died in 1872, and this action was commenced in 1883, by one of J.'s children, claiming an account against K. of the profits of the lands, and to have the same sold, and the proceeds distributed according to J.'s will.

Held, affirming the decision of OSLER, J. A., that P. could not be said to have been an express trustee within R. R. O. ch. 108, sec. 30, and, that being so, the plaintiff's action was barred by the Statute of Limitations.

The proper construction to be placed on the will was, that a life estate was given to H. with power of sale to P. during her life time with her consent, and the remainder in fee to the children in the event of non-execution of the power: that unless and until the consent of the widow was given, the power of sale did not exist, and the executor had no duty to perform in relation to the lands; and he did not take, nor was it necessary for him to take, the legal estate; that as he never was required to execute the power, he never became trustee.—*Johnson* v. *Kræmer*, 193.

3. *Devise to son who died before testator—R. S. O. ch.* 106—*Lapse.*]—H. made his will on October 10th, 1868, devising land to his son J., without words of limitation, and added a codicil on February 23rd, 1870, by which he confirmed the will save as changed by the codicil. J., the devisee, died February 17th, 1874, and H., the testator, died December 15th, 1879.

Held, That as the will was made and republished by the codicil prior to January 1st, 1874, the sections subsequent to sec. 7 of R. S. O. ch. 106, and among them sec. 35, did not apply, and that under the former law the devise to J. lapsed. *Zunstein* v. *Hedrick et al.* 338.

4. *Construction—Concurrent gift to parents and children—"Heirs"—Guardian of legacy—Trust—Dower—Election—Bequest of annuity to widow.*]—A testator, after bequeathing to his wife his dwelling house and furniture, and an annuity, continued as follows:—"I give and bequeath unto G. B., and her children, the dwelling house they now occupy, the wife of C. R. B., and