

attaining the age of 25 years; and he directed that, after deducting from the proceeds of the sale a sum which when invested would be sufficient to pay to his wife an annuity of \$600 to be paid to her so long as she should remain his widow and a member of the Church of England, the residue of the proceeds of the sale should be divided equally among his five children and any other children he might have who should survive him; he also provided for the sale on the death or marriage of his wife of his residence and furniture, and for a fund to secure the annuity of \$600, and the division of the proceeds among his children; and he further provided that, if any child should die before the period appointed for distribution, his or her share should be divided in equal shares between his or her surviving children, if any, and, if none, in equal shares between his own surviving children.

The testator died on the 12th July, 1890, and his wife on the 17th January, 1905.

The testator left surviving him the five children named in his will, all now living, the youngest of whom will not attain the age of 25 years until August next, and all of them are desirous that the application should be granted.

As I understood Mr. Campbell, his contention was that there was jurisdiction in the Court, under sec. 14 of the Act, to authorise the sale, but that is, I think, clearly not so, as the jurisdiction conferred by that section is confined to cases in which the sale is required to be made "for the purpose of raising money to repair, rebuild, or alter any existing buildings upon the remainder of such settled estates, or otherwise to build upon or improve the same, or for the purpose of raising money to pay off and discharge wholly or in part any incumbrances existing thereon;" and no such case is made by the petition.

Section 16 is not so limited, and the Court under it has jurisdiction, "if it deems it proper and consistent with a due regard for the interests of all parties entitled under the settlement," to authorise a sale of the whole or any part of the settled estate.

Under the special circumstances of this case, and having regard to the fact that all the persons presently entitled to the estate are desirous that the proposed sale be carried out, and the further fact that as soon as August next arrives they will become absolutely entitled, and there is therefore but little chance of the children of any of them becoming entitled, I may, I think, properly determine that the case is brought within sec. 16, and I so determine and authorise the proposed sale accordingly.

It may be proper to observe that sec. 16 is taken from the English Settled Estates Act of 1877, 40 & 41 Vict. ch. 18, and is