

cease if they had not alienated, and restrictions were imposed on the mode of alienation. The gift over was held to be repugnant as altering the devolution and also preventing enjoyment without alienation.

A condition altering the devolution of the property is invalid. Thus a limitation defeating escheat to the Crown has been declared repugnant (*Re Willcocks Settlement*, 1 Ch. D. 229.) In *Gulliver v. Vaux*, 114 R.R. 83, quoted in *Holmes v. Godson*, 114 R.R. 73, 81, it is said: "So feoffment in fee upon condition that feoffee's daughters shall not inherit, is void because repugnant to the nature of the gift." An executory gift over, in the event of the donee of an absolute interest dying "without a will and childless" is void for repugnancy: *In re Dixon* (1903) 2 Ch. 458.

A condition depriving the donee of any other natural incidents of the estate given or limiting his enjoyment thereof is invalid. In *Dawkins v. Lord Penrhyn*, 4 App. Cas. 51, it was said by Lord Penzance that the right of a tenant in tail to enlarge his estate could not be defeated by clauses prohibiting his doing so or defeating the estate if he did so. Thus again land cannot be given to A. and B. with a proviso that the property shall not be severed, but that the survivor shall take the whole: *Shep. Touch*, 131. A common case is that, in which it is sought to prevent the donee encumbering the property. Such cases were *Renaud v. Tourangeau* and *Blackburn v. McCallum* quoted above in which it was sought to impose such a restriction for twenty and twenty-five years respectively.

A grant upon condition that the grantor shall not take the profits is invalid: *Cru. Dig. Tit. 13, c. 1, s. 22*. Where real estate was given in fee on condition that on any sale certain sums were to be paid out of the proceeds the condition is not binding: *In re Elliott* (1896), 2 Ch. 353.

In *Williams v. Williams* (1912), 1 Ch. 399, a condition providing that, if proceedings for administration arose, all costs should be paid from the plaintiff's share, was held not to apply to wilful default, but if it had to be repugnant. In *Sir Antony*