

WILL.

(REVOKING AGREEMENT FOR SALE BY.)

A testator directed all the rents and income of his estate to be divided between his widow and children, one share to each of the children, and two to the widow, her heirs and assigns for ever, and proceeded as follows: "I hereby direct that each child on attaining his or her majority, receive his or her share, (after expenses of proper repairs are deducted,) for his or her sole use." *Held*, that this gave the widow an absolute interest in all his estate, and that a subsequent devise over of her share in the event of her dying intestate was repugnant and void; and that the children were entitled to the income only on attaining twenty-one; but, the testator by the same will directed "that no real estate be sold without the

unanimous consent and direction of all my executors;" and also gave them power to buy and sell, give and take titles in fee simple in as full a manner as if he were living, and appointed his widow executrix, and F. and H. executors thereof; F. and H. renounced probate, and the widow alone proved the will. *Held*, that the powers conferred by the will were personal, and could not be exercised by the widow alone, and that being personal, they had become extinct, and that the division of the estate having been postponed only for the sake of the powers, that its distribution was accelerated by their extinction. *Held*, also, that the widow under the devises mentioned was put to elect whether she would take under the will, or claim her dower.

Kerr v. Leishman, 435.

See also "Agreement for Sale."