

divided between one of his sons and one of his daughters ; the daughter to have all his personal estate also. In the event of the death of either without heirs, his or her share was to be divided between the other children of the testator. Several pecuniary bequests were made, which were to be paid by the son and daughter, by instalments, commencing one year after they should "have come into possession hereby given." The daughter married and died during the life of the widow, leaving the husband tenant by the curtesy, but no child her surviving. The widow subsequently died, and thereupon the tenant by the curtesy recovered possession of his deceased wife's share in ejectment. More than a year after the death of the widow, a daughter of the testator, one of the legatees named in his will, filed a bill for the payment of the arrears of her legacy ;

Held, in the events that had happened, that there was no merger of any portion of her legacy, by reason of her interest in the deceased daughter's share ; that the devisees took the land subject to, and charged with the payment of all the legacies which were not personal or general charges against the devisees ; and the defendants—the son and the tenant by the curtesy—having resisted the claim of the plaintiff, were ordered to pay the costs of the suit ; there being no assets of the testator out of which they could be paid, and the questions raised not being those of construction within the rule allowing the costs of their solution to be charged on the estate of the testator.

Robson v. Jardine, 420.

15. A testator devised all his estate, real and personal, to trustees for the support and maintenance of his wife during her widowhood, and of his daughter until she should attain twenty-one ; and directed, in case she should survive her mother, that the trustees might convey to the daughter on her attaining majority, but in no case was she to have control of the property until after marriage or death of her mother ; and further that "even after death or marriage of my said dear wife, and after the majority of my said daughter, my said trustees may still continue to manage the said estate, and allow her the yearly proceeds arising therefrom only, till they shall see proper to give the management thereof to my said daughter. * * * In the event of the death of my said daughter without leaving lawful issue of her own body to survive her, I order and direct that my said trustees shall sell and convey the said estate after the death or marriage of my said dear wife, and that they divide the proceeds arising from such sale, and the rest of the personal property that may then belong to my estate, equally among all my brothers and sisters. * * * But if my said daughter live, said lands and premises shall be preserved for her and her heirs and assigns for ever." The widow died shortly before the daughter attained