L.

was precluded
from obtaining
him to have
entitled to it.

ng on the evi-
t mentioned in
t the purchaser
's sale for taxes
f the property,
g a bill filed to
irchase on the
practices at the
unnecessary to
file a bill im-
on the ground
alified as mort-
e purchase for
Ib.

—

EFAULT.

tors," 6.

—

L.

(ON OF.)

tator directed
aid out of his
n bequeathed
nuity of £100,
he proceeds of
lso bequeathed
nal property;
ted that the
rty should be
r at the death
l finally em-
or to sell such
roperty as he
r the purpose
ist claims due
at any time

that the executor might find it
necessary to do so. *Held*, that
the debts were charged upon the
real estate as the primary fund.

Harrold v. Wallis, 167.

(SETTING ASIDE)

2. The mere fact that the in-
fluence was exercised by a wife
or other person over the mind of
a testator is not of itself sufficient
to invalidate a will; such influ-
ence must amount to a control
over his mind subjecting his men-
tal will to the desire of another,
so that the document executed as
his will is not in reality *his* will,
but that of another; the question
in such case is, in what sense is
the document the will of the
testator? Where therefore the tes-
tator, an infirm man, 82 years of
age, within the year preceding
his decease made four wills, the
two last on the 27th July and
8th September, and on the 14th
of the same month died, and it
was shewn that for some time he
had been in a state of physical
weakness, and suffering from
disease of the brain; the medical
and other testimony, however,
going to establish that at the
time of the execution of the will
he was of a sufficiently sound and
disposing mind to make a will;
that the will of the 27th July
was made by him while absent
from his house, the latter while
there, and under the control of
his wife, who it was shewn had
him entirely under subjection,
and by whom the instructions
for this will were given, and in
whose presence the document
was presented to him for execu-
tion, the evidence also shewing
that for a long time he had been
unable to resist her views with
regard to any matters of busi-
ness: and there being nothing to
indicate any desire on his part
to change the disposition of his
estate made by the will of July:
the court, upon a bill filed for
that purpose, set aside the will of
September, as having been ob-
tained by the exercise of undue
influence by the wife, and estab-
lished that of July as being the
proper last will of the testator,
and ordered the widow who
was largely benefitted under the
will of September, to pay the
costs of the cause.

Waterhouse v. Lee, 176.