

and W., when W., the youngest, should attain majority: And in case the value of the estate should not prove sufficient, after providing for the widow's annuity and the daughters' portions, to produce £7,000 for each of the sons, then a ratable reduction should be made from the share of each child. The testator also directed that after the decease of his wife the sum set apart for securing her annuity should be equally divided amongst his children. The testator by his will provided that in case his sons desired to continue his business, that his executors should afford them facilities for so doing, and should sell to them at a fair valuation the store and stock-in-trade. Stock was being taken at the time of the testator's death, and the goods in hand were, in accordance with his custom, valued, by adding 75 per cent. to their sterling price, at the sum of £18,990. The sons J. and P. having agreed to continue their father's business, were charged in the books of account with that sum. The estate proved to be of only half the value at which it was estimated at testator's death, so that there was insufficient without taking into account the value of the stock, to realize the widow's annuity and the portions for the daughters. The sum at which the stock had been valued was proved to be about twice its actual value, and evidence was adduced proving that no actual consent or agreement had been given by J. and P. to

be charged with it at its estimated value. *Held*, that there had been no absolute sale of stock to them, and that they were only chargeable with it at its actual value: that the sum required to be set apart to raise the annuity for the widow was such a sum as, being invested at 6 per cent. per annum, the legal rate at the time of testator's death, would produce £500 per annum, and that the principal sum was, under the above provision, distributable, on the death of the widow, among all the testator's children.

Paterson v. McMaster, 397.

2. Where a testator, by his will, gave the residue of his real and personal property to his executors and trustees in trust, to sell the same, and, after satisfying certain charges, to expend and apply, for the maintenance and education of his minor children, such sums as they thought necessary for this purpose, and in subsequent parts of the will provided that such children were to draw, or be entitled to, equal shares of his estate, and that each should receive his or her share of the proceeds of the real estate, on marrying or arriving at maturity; and that, until then, the shares of such children should be invested and paid out as they required the same as aforesaid. *Held*, that their maintenance and education were a charge on their own shares only, and not on the whole residue.

Gibson v. Annis, 481.