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will not be rebutted by the fact of the husband devising the property by will.
LEONARD v. LEONARD576

2. — *General Power of Appointment—Intention to Exercise Power—Direction to Pay Debts—C. 77, s. 22, C. 8.*] A testatrix, having a general power of appointment under the will of her father over real and personal estate, by her will directed that her debts and funeral expenses should be paid out of her estate. After making certain bequests the testatrix proceeded as follows: "The real estate of which I am possessed, and the personal estate to which I am entitled, came to me under the will of my late father, and it is my will that after the payments above provided for that the residue of my estate, such as came to me under my said father's will, and all other I may be entitled to, both real, personal and mixed, shall be divided between my three children." The testatrix had no estate of her own. *Held*, that the will operated as an exercise of the power; the direction to pay the testatrix's debts out of her estate being but one circumstance to be considered in determining what her intention was. HUTCHINSON v. BAIRD624

3. — *Construction—Gift of Income to Trustees for Maintenance and Education of Children—Income Payable to Father.*] A testator by his will gave his estate to trustees in trust to pay over the net income to the support, maintenance and education of the children of his son until the youngest should attain the age of twenty-one years. Some of the children were of age, and the others were minors. The father was able to support, maintain and educate the children. *Held*, that so much of the income as would be necessary should be paid to the father while he was under an obligation to support, maintain and educate the children, and did so, until the youngest child became of age. SCHOFIELD v. VASSIE637

4. — *Pecuniary Legacies—Residuary Estate.*] Where a testator had agreed to sell land, but had not executed a conveyance of it to the purchaser and died, leaving a will, by which he gave several pecuniary legacies to

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certain relatives, to be abated proportionately in the event of his estate being insufficient to pay them, and then gave all the rest of his estate to the children of A.: *Held*, that the pecuniary legacies were not a charge upon the residuary estate in the event of the personalty not being sufficient, and that the conveyance of the land in question should be made by the residuary legatees. *In re FAIRLEY ESTATE*91

5. — *Precatory Trust—Construction—Words of Request.*] A testator, by his will, gave and bequeathed all his property, both real and personal, to his wife for her use and benefit, and then added: "I request my wife to pay to P. R. (an adopted son), at her death, or should she sell the farm on which I now live before her death, \$400. I also give P. R. the sorrel horse now in my possession." *Held*, that the gift to the testator's wife was subject to a precatory trust in favor of P. R. RENEHAN v. MALONE....596

6. — *Testamentary Guardian—Infant—Trustees—Education of Infant—Construction.*] A testator bequeathed his estate to trustees, and directed them out of their investments of the same to set apart £1,000 "to be used by them for the purpose of educating and giving a profession to my son, providing he has not already been educated and received a profession." He then directed the trustees to use and apply one-half of the income of the residue of the estate, as far as deemed necessary, for the maintenance and support of the said son, and that upon his arriving at the age of 25 years one-half of the estate with all accumulations thereon should be given to him absolutely. The testator left him surviving his wife, the mother of the son mentioned in the will, and the said son, an infant of about nine years of age. On an application by the mother of the infant to be appointed guardian of his person: *Held*, that the trustees were not appointed by the will guardians of the person of the infant; that the application should be granted, and that the mother as such guardian had the power, subject to the order of the Court, of selecting the school at which the infant should be educated. *In re TAYLOR, an Infant*461