

And by the Wills Act, "where any real estate is devised to any person without any words of limitation, such devise shall [subject to the *Devolution of Estates Act*], be construed to pass the fee simple, or other the whole estate or interest, which the testator had power to dispose of by will, unless a contrary intention appears by the will." R.S.O. ch. 120, sec. 31.

In British Columbia the same enactment except the words in brackets, is in force. R.S.B.C. ch. 241, sec. 25.

In Manitoba, on and after May 30, 1882; in New Brunswick, on and after January 1, 1839; and in Nova Scotia, on and after October 30, 1840, the same enactment, except the words in brackets came into force.

Since these enactments, restrictive words are necessary in order to cut down an indefinite devise to a life estate.

"My wife shall be allowed to live on the said property during the term of her natural life," gives a life estate. *Fulton v. Cummings*, 34 U.C.Q.B. 331.

A similar devise to a daughter as long as she remained unmarried gives an estate during the residence on the land unmarried. *Judge v. Splann*, 22 O.R. 409.

A devise to A. in fee, subject to the condition that daughters should "have at all times a privilege of living on the homestead and of being maintained out of the proceeds of the said estate during their natural lives," gives a life estate to the daughters. *Bartels v. Bartels*, 42 U.C.Q.B. 22.

A devise in fee, with a direction that the testator's daughters and their mother should have "a lien on said lands for a home during their natural lives" gives a life estate to the daughters. *Scouler v. Scouler*, 8 C.P. 9.

A devise to a widow of "her life in the said lot" gives her a life estate. *Smith v. Smith*, 18 O.R. 205.

A devise to children, "reserving to my wife, as long as she remains my widow, the revenues and incomes therefrom," gives an estate to the widow *durante viduitate*. *King v. Murray*, 22 N.B.R. 382.

A devise to a wife "to be at her will and disposal during her natural life," with a devise over, gives a life estate only to the wife. *Doe dem. Keller v. Collins*, 7 U.C.R. 519.

But a devise to a wife for life, with a general power of disposal by will, gives a fee simple. *Re Bethune*, 7 O.L.R. 417.

*Semble*, that a devise to H. for her own use, with power to sell or dispose of the same as she may see fit, followed by a devise that after her death "the remainder of my estate, if any, be equally divided between, etc.," gives A., a life estate only. *Roman Catholic Episcopal Corp'n. v. O'Connor*, 14 O.L.R. 666.

A vested remainder in fee, after a life estate with power of sale in the life tenant, is not affected if the power is not exercised. *Doe dem. Saroy v. McEachren*, 26 N.B.R. 391.

As to whether a devise for life, with a power of appointment amongst sons of the devisee creates a power or a trust, *quære*. *McMaster v. Morrison*, 14 Gr. 138; *Pettypiece v. Turley*, 13 O.L.R. 1.

A devise to D. for life, "and to her children, if any, at her death, if no children," then over, gives a life estate to D., with remainder to children. *Grant v. Fuller*, 35 Can. S.C.R. 34; *Young v. Denike*, 2 O.L.R. 723; *Sweet v. Platt*, 12 O.R. 229.