

the conclusion that all the lands were so charged. The direction that his debts should be paid by his executors, conferred an implied power of sale upon them for the purpose of paying the debts out of the proceeds.

*Held*, also, that apart from the above R. S. O. ch. 107, sec. 19, covered the case. The testator had not indeed, within the meaning of that section, devised the real estate charged in such terms as that his whole estate and interest therein had had become expressly vested in any trustee, but he had devised it to such an extent as to create a charge thereon, which the Act in effect transmutes into a trust, and thereupon clothes the executor with power to fully execute that trust by conveying the whole estate of the testator. *Yost v. Adams et al.*, 411.

6. *Executor to value estate—Certain beneficiaries consulted to exclusion of others—Exercise of quasi-judicial functions by executors.*—A testator provided in his will that on the death of his widow, his executors should have his farm valued, and gave permission to his son E. to take it at their valuation, after which the proceeds were to be divided amongst all his children, of whom the executors were two. E. having made up his mind to take the farm, the executors called in his aid in nominating three valuers, and proceeded to value the farm, he being present, without notifying the other children. There was no evidence that he had attempted to influence the valuers or that they had reached their conclusion in other than a legitimate and upright way, but certain of the children had impeached the valuation as being too low, and asked for administration:

*Held*, that the executors who were exercising, in some sense, judicial functions, should either have excluded all interested, or should have invited all interested to take part in appointing valuers; that there should therefore be another valuation of the farm, and if the parties desired, it might be referred to the Master, or the executors might, on notice to all interested, proceed to do what was needful in that behalf. *Re Kerr, Kerr et al. v. Kerr et al.*, 484.

7. *Quieting title—Devise—Condition—Power of sale.*—The petitioner in a quieting title application claimed title as devisee under a will which contained the following provisions:

"Secondly. I devise to my son J. F. [the land in question], but he is to be known as a sober, steady, and industrious man.

"Thirdly. If at any time during the period of five years after my death, it appears to my executors, hereinafter named, that my said son J. does not remain sober, I give them power to sell and dispose of the said property for such charitable purposes as to them shall seem meet."

*Held*, that the power of sale in the will was not void for uncertainty, and that the certificate of title could only issue subject to such power.—*Re Fox and South Half of Lot No. one, etc.*, 489.

8. *Devise—Estate—R. S. O. c. 109—Title.*—R. O. by his will devised all his personal estate to his wife M. S. C. to be held for the interest of his son A. S. C. when he should have arrived at the age of 24 years; an annuity to his wife, M. S. C. for life;