

*Mildway's Case*, 6 Rep. 41a, it is said that "if a man makes a gift in tail on condition that the donee shall not commit waste or that his wife shall not be endowed, or that the husband of a woman tenant in tail after issue shall not be tenant by the courtesy or that tenant in tail shall not suffer a common recovery, these conditions are void and repugnant against law."

These cases will serve to shew the sort of restrictions which testators and grantors seek to impose on the devisee or grantee. Many further examples are given in the text-books and these should be consulted.

It cannot be said that the law on this subject is in an entirely satisfactory condition. Distinctions must be drawn between total and partial restrictions, between limitations and conditions, between conditions which are repugnant and those which are illegal; and here as in other parts of real property we see signs of the way the Statute of Uses broke in upon a logical system of law, not altogether to its advantage. In the future the law may well be modified. The distinction between a limitation and a defeasance has been to some extent obliterated by such cases as *Rockford v. Hackman*, but it still exists; and it will probably always be found necessary to permit the imposition of some restrictions; but the trend of legal opinion is in favour of freedom of alienation so that it is possible that the doctrine expounded in *In re Rocher* will be developed at the expense of the principles laid down in *In re Macleay*, especially since the Privy Council in *Renaud v. Tourangeau* has given its moral support to such a development.

In the meantime its very difficulties make the question an interesting and not uninteresting subject for examination.

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