

Thus a condition forbidding alienation cannot be attached to an estate in fee simple (Cru. Dig. Tit. 13, c. 1, s. 22). In Litt (page 222a) we read: "If a feoffment be made upon this condition, that the feoffee shall not alien the land to any, the condition is void, because when a man is enfeoffed of lands or tenements he hath power to lien them to any person by the law." In *In re Rocher*, 26 Ch. D. 801, land was limited to A., his heirs, executors, administrators and assigns, and it was provided that prior to selling the property he was to give B. the first refusal for £3,000, the actual value of the property being £15,000. This was held by Pearson, J., to be equivalent to "during the life of the widow you shall not sell." The condition was held not to be binding. In *re Dugdale*, 38 Ch. D. 176, may be quoted as an attempt to hinder alienation by means of a gift over. An estate was devised in trust for A., his heirs and assigns with a gift over if A. should do any act whereby he should be deprived of the "personal beneficial enjoyment" of the property. He was held to take an equitable estate in fee simple.

In practice the strictness of the above rules has been modified. In *Rochford v. Hackman*, 9 Hare 475, 89 R.R. 539, 543, the Vice-Chancellor first states the law as above and then shews how it may be avoided in practice, although theoretically adhered to. He says: "Upon examining the cases on the subject, I think it will be found that there are two (such) rules: First, that property cannot be given for life any more than absolutely, without the power of alienation being incident to the gift; and that any mere attempt to restrict the power of alienation, whether applied to an absolute interest or to a life estate, is void, as being inconsistent with the interest given; and secondly, that although a life interest may be expressed to be given, it may be well determined by an apt limitation over." And at page 544 he says: "The true rule I take to be this: 'The court is to collect the intention of the testator, whether his intention was that the life interest should not continue; and it is to collect that intention from the whole will.'" To see the result of this ruling we may quote Kay, J., again: "There are a series of decisions of which