

be equally divided between her near relatives and mine." The son having died without issue, and the wife of the testator having subsequently died without making disposition of the property by deed or will, it was *Held*, 1. That by the terms of the devise to his wife a trust was created in the testator's lands for the benefit of the near relatives of his wife and himself. 2. That no legal uncertainty attached to the term "near relatives" as used by the testator, they being those who would take under the Statute of Distributions. 3. That the heirs-at-law or next of kin of the testator were entitled to one undivided half of the land devised, and the heirs-at-law or next of kin of the testator's widow were entitled to the other undivided half: *Id.*

*Devise construed as passing Life Estate, and not falling within Rule in Shelley's Case.*—A testator devised to his granddaughter "the free use and occupation of" certain land, "to have and to hold, to use, occupy and enjoy the same, together with all the rents, issues and profits thereof, with the appurtenances, during her natural life." In giving other bequests, the will provided: "It is my will, and this bequest is made upon the express declaration, that in case any of the said grandchildren should depart this life without issue of their body, that then all their share of said real estate (or to whom the use thereof is bequeathed as aforesaid) shall be equally divided among all my grandchildren and their legal representatives, and the title thereto thereafterwards so vest forever. It is my will that no title in fee to any of said land shall vest in my said grandchildren, and I declare it to be my will that they shall only have a life estate therein, and that the fee simple shall vest in their legal heirs. And it is my will that they, nor any of them, shall have any right to sell, dispose of, mortgage or incumber, in any manner, any of said land, and that they shall keep it free and clear for their legal heirs, to whom it shall descend forever." *Held*, that the granddaughter just named took only a life estate, and that the devise to her did not come within the rule in Shelley's case: *Belslay v. Engel*, 107 Ill.

The rule in Shelley's case is, at most, a technical rule of construction, and must give way to the clear intention of the testator or donor, when that intention can be ascertained from the instrument in which the words supposed to be words of limitation are used: *Id.*

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#### LIST OF THE PRINCIPAL NEW LAW BOOKS.

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