

WILL AND TESTAMENT—*Continued.*

the death of his said daughter, convey and assign unto her children, if she should have or leave any at the time of her death, in equal portions, absolutely, all the money and estate in his will devised and bequeathed unto the said trustees, for the use and benefit of his daughter and her children; provided, always, that no such conveyance or assignment should be made, until the child or children to whom the same was to be made, shall have severally attained the age of twenty-one years." The daughter, who survived the testator, died, leaving two sons, one of whom died intestate, and without issue, before attaining the age of twenty-one years. **HELD—**

1. That the deceased son of the testator's daughter, had a vested interest in the estate devised and bequeathed to his mother for life, and that, upon her death, and when he, if living, would have attained the age of twenty-one, the trustees would have been bound to convey and assign to him his proportion of said estate.
 2. That his representatives can only claim as he could have done if living, and as he had no power to call for the legacy before he attained twenty-one, so neither can his representatives insist upon the payment of it sooner. *Keerl vs. Fulton*, 532.
16. The same will contained the following clause, "After the death of my said wife, I give, devise and bequeath all the rest, residue and remainder of my estate, real, personal and mixed, unto my said children, (naming his six sons,) and to the said trustees, for my said daughter, as aforesaid, to be divided into equal proportions for my said seven children, and to their heirs, executors and assigns forever." The daughter died, leaving the widow of the testator. **HELD—**
1. That the daughter took an absolute title in remainder, in one-seventh of this rest and residue, upon the death of the widow, to whom a life estate was given.
 2. That upon the death of the widow, this one-seventh, will descend to the heirs at law of the daughter, without being liable to the curtesy of her husband, she not having been seized in fact, and in deed of this estate during coverture. *Ib.*

See COMMISSIONERS, 1.

ELECTION, 1.

NOTICE OF TRUST, 3.

POSTHUMOUS CHILDREN.

WOOD CUT, NOT REALTY.

1. Wood and timber cut down prior to the sale of land, does not pass to the purchaser, but is severed from the inheritance, and becomes personal property. *Crouch vs. Smith*, 401.