As stated,a decree pro confesso was passed against Sadie Lewis and Agnes Hagan. Agnes Hagan was duly summoned and failed to appear or answer,and the decree pro confesso against her appears to have been proper. Sadie Lewis,however,was returned "non est" by the Sheriff, and not having been summoned.and not having appeared or answered,must be held to be not bound by the decree which was passed. The docket entries have shaoen against whom the decree pro confesso was passed,and the papers in the case should have been recorded,as title to real estate was involved. I will direct the Clerk to extend his docket entry,and those interested in the title to the real estate should see that the proceedings are properly recorded.

The learned Judge,who was my predeecessor,and who passed the decree in 1925 construing the will,filed an able opinion in which he discussed and set forth the reasons which formed the basis of his decree. As however Sadie Lewis was not a party to the cause prior to the time of the filing of the petition and was not bound by the decree heretofore passed,but in her petition among other things prays for a construction of said will,it is her right now to have the same again construed.

The will of Mr.Hagan,bearing date on the 5th day of August,1912,after directing the payment of his just debts and funeral expenses,provided as follows;

"I will,devise and bequeath all my property and estate,of every chargcter and description and wheresoever situate,to my wife,Lizzie R.McHagan,with full power a to handle and dispose of the whole or any portion of my said estate for her comforts and pleasure,at her will and pleasure; The whole or such portion of my said property and estate as may remain,at the death of my said wife,I will,devise and bequeath to my nephews and nieces,share and share aloke,the child or children of any deceased nephew ar neice to take the portion the parent would have taken,if living".

In addition to what was said by Judge Worthington,it may be stated;

The first and principal object in the construction of wills is to ascertain the intention of the testator from the language of the whole will and then to give effect to that intention if consistent with the settled canons of constuction and not in conflict with the well established rules of law and property,or,as has been sometimws said,the intention of the testator is the law of Wills. By the Act of 1825,Chapter 119,codified as Section 336 of Article 93, (Ann.Code of 1924) it is provided;

"In every will whereby the lands or real property shall be devised to any person,and no or perpetuity or limitaion are used in such devise,the devisee shall take under and by virtue of such devise the entire and absolute estate and interest of the testaor in such lands or real property,unless it shall appear,by devise over,or by words of limitation or otherwise,that the testator intended to devise a less estate and interest".

The effect of this situation was considered in the case of Johns Hopkins University vs. Garrett,128 Md.350,and it was there said;

"The language of the statute must necessarily control the character of the estate devised, and that character can only be diminished from an entire and absolute estate,by finding that the testator has used language clearly showing an intent on his part to devise a less estate and interest,and as was said by the Lord Chancellor in Thomhill vs. Hall,2 Clark & Fin. 22, 'Such an estate cannot be taken away or cut down by raising a boubt upon thE extent or meaning or appligation of a subsequent clause,nor by ant inference therefrom, nor by any subsequent words that are not as clear and decisive as the words giving the estate'."

It is also a well settled doctorine of law,sustained by all of the authorities,that where an estate is given to a person generally or indefinitely with power of disposition,such gift carries the entire estate and the devisee or legatee takes not a simple power but the property absolutely. But where the property is given expressly for life and the power of disposition of the reversion is annexed,the rule is different and the first taker has but an estate for life with the super-added power. Welsh vs. Gist,101 Md. 608; Benesch vs. Clark.49 Md. 504.

Where an absolute gift to a person is followed in the same instrument by a gift over in case of that person dying intestate or without having disposed of the property,the gift other is said to be repugnant and is voud. Bradford vs. McKenzie,131 Md.335.