

direct; or, failing any testamentary disposition, will pass to her personal representatives.

That the estate shall be reasonably used and enjoyed, so that a substantial part may pass to his relatives, is manifested by the testator's words expressing that for the carrying out of his wishes he relies wholly on his wife's sense of justice and her kindness of heart. The words, however, fall far short of imposing an obligation, and create no precatory trust.

After the executors shall have paid the debts of the deceased and the legacy of \$140, and, if it should be necessary for such purpose, shall have sold the realty, Mrs. Stanton is entitled to the whole estate, provided she shall previously have elected to take under the will as against her right to dower. The property of her husband is hers to use as she may deem proper; but of any that may remain at her death, not consumed by use, three-fifths is not to be at her disposal, but will pass as directed by the codicil.

As has been often said, cases are of little use where the intention of the testator may be gathered from the will itself. The following, however, cited upon the argument, are to some extent in point: *Re Tuck*, 10 O.L.R. 309; *Re Davey*, 2 O.W.N. 467.

I would also refer to *Re Rowland*, 86 L.T.R. 78; *Re Willatts*, [1905] 1 Ch. 378, as reversed, [1905] 2 Ch. 135; and especially *FitzGibbon v. McNeill*, [1908] 1 I.R. 1.

Costs of all parties out of the estate.

MIDDLETON, J.

DECEMBER 21ST, 1912.

RE STEWART, HOWE & MEEK.

Company—Contributory — Subscription to Stock — Promissory Note—Alleged Misfeasance—Allotment—Rescission.

Appeal by the liquidator from the decision of Mr. Cameron, Official Referee, dismissing the application of the liquidator to place Charles S. Meek upon the list of contributories, and to make the said Charles S. Meek liable in respect of certain misfeasance and breach of trust in relation to the company.

W. N. Tilley, for the liquidator.

H. E. Rose, K.C., for Charles S. Meek.