

RE ATTWOOD—KELLY, J.—JUNE 28.

*Will—Construction—Effect of Codicils—Harmonising Varying Dispositions Made by Will and Codicils.*—Motion by the executors of the will of Adolphus Charles Attwood, deceased, for an order determining certain questions arising as to the meaning and interpretation of the will and eight codicils. The motion was heard in the Weekly Court at London. KELLY, J., in a written judgment, said that the testator, having by his will and earlier codicils given his son Frank a substantial interest in his (the testator's) real estate, by the codicil of the 19th August, 1918, shewed an intention of depriving him of all these benefits. By a later codicil, Frank again became entitled to share in some of the real estate. The will also provided for payment by the executors to the testator's wife during her lifetime and for her own use of one half of the income derived from an investment of the residue of the estate. This was materially altered by the second codicil (21st January, 1916), whereby the executors were directed to invest \$3,500, and pay the income therefrom to the widow for her own personal comfort and support during her life, and to divide what was left of the estate, after setting apart the \$3,500, among the legatees. This was repeated in the seventh codicil (9th August, 1918). By the last codicil (23rd December, 1918), the son Frank and his two sons were made "joint and equal heirs" to the north-east quarter of lot 20 in the 9th concession of Lobo. The learned Judge answered the questions submitted as follows: (1) The legacies directed to be paid by para. 5, clauses (c) and (i) of the will are payable now, under the provision of the codicil of August, 1918, to the extent that the estate available therefor is capable, after setting apart the \$3,500. (2) The son Frank and his two sons are now entitled to the quarter-lot mentioned. (3) The executors are not required to carry out the provision for keeping down the mortgage on that quarter-lot. (4) The provision in the fourth and seventh codicils for payment of \$50 annually for six years to the son Frank has ceased to be in force. Order declaring accordingly; costs of the application to be paid out of the estate, those of the executors as between solicitor and client. J. B. McKillop. for the executors. F. P. Betts, K.C., for the Official Guardian, No one appeared for the other persons interested.