

determining certain questions as to the meaning and effect of the will.

The motion was heard in the Weekly Court, London.

C. St. Clair Leitch, for the applicant.

R. L. Gosnell, for the widow.

J. D. Shaw, for the devisees of the real estate.

LENNOX, J., in a written judgment, said that the testator died on the 21st December, 1915, having made a will dated the 23rd April, 1915, and a codicil thereto dated the 4th June, 1915.

The property of the testator at his death consisted of a farm with dwelling and buildings thereon, worth \$6,500, and personal estate of about the value of \$4,400.

The testator, by the will, devised the farm to his two nephews equally, subject to the following charges: \$500 each to two nieces, to be paid to them by the devisees "out of my real estate within one year from the date of my death;" the devisees "shall also pay to my wife . . . \$175 per year for and during . . . her . . . life and shall allow her the use of the dwelling-house on my farm so long as she lives." To his wife he also bequeathed all his household goods and furniture, money, securities for money, and other personal estate, absolutely.

By the codicil, the testator directed that his wife should be provided by the two devisees with a home instead of having the use of the house on the farm; and, if she preferred to live elsewhere, the devisees should pay her board and lodging in a place that should be satisfactory to her; and he made this a charge on the land.

The learned Judge said that, on the evidence, the farm should rent for about \$250 a year and taxes and statute labour. The charges on the land in favour of the widow would amount to \$400, putting her board and lodging at \$225; and, after reviewing the authorities, he said that he was clearly of opinion that the widow was not entitled to dower in addition to the provision made for her by the will, and was put to her election.

The principal cases referred to were: *Becker v. Hammond* (1866), 12 Gr. 485; *Westacott v. Cockerline* (1867), 13 Gr. 79; *Marriott v. McKay* (1892), 22 O.R. 320; and *Re Allen* (1912), 4 O.W.N. 240.

(2) There was no evidence before the learned Judge which would enable him to determine what would be a fair allowance to make to the widow for board and lodging.

(3) The question was asked: "The devisees not having taken possession of the property devised, or accepted or rejected the