

part of the estate she might desire, under the first clause of the will. But that clause was ambiguous. It might mean that she was to have the right to live upon or lease the real estate, to have the personal estate turned into money, etc., etc.; and other meanings might be attached to the language employed.

Reference to *Terry v. Terry* (1863), 33 Beav. 232; *In re Pounder* (1886), 56 L.J. Ch. 113; *Roman Catholic Episcopal Corporation of Toronto v. O'Connor* (1907), 14 O.L.R. 666; *In re Jones*, [1898] 1 Ch. 438; *In re Richards*, [1902] 1 Ch. 76; *In re Ryder*, [1914] 1 Ch. 865.

It was obvious that the testator expected that the capital of the estate would or might be reduced—he had made provision for the event of the estate being reduced to \$5,000 or less. The only person to whom discretion was given was the widow; and the testator, by the first clause, gave her the right to reduce the capital as she might see fit and desire.

Order declaring accordingly; costs of all parties to be paid out of the estate, those of the executors between solicitor and client.

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MASTEN, J.

MAY 30TH, 1919.

#### RE PRATT.

*Will—Construction—Bequest of Money to Married Daughter—Direction for Settlement of Fund—Duty of Executors—Intention of Testator.*

Motion by the executors of Joseph Sutton Pratt, deceased, for an order determining questions arising upon the will of the deceased.

The motion was heard in the Weekly Court, Toronto.

H. W. Mickle, for the executors.

John Shilton, for Emily Maria Buchanan, a beneficiary.

MASTEN, J., in a written judgment, said that by the will the testator gave all his estate to his executors "upon trust to realise upon the same and after payment of my debts testamentary and funeral expenses and the expenses of administration to divide the balance into equal portions and to pay one of the said portions to my daughter Emily Maria Buchanan and the other to my daughter Clara Hamilton. And I direct that the said money shall be held by them as their separate estate and free and independent of the debts obligations and control of any husband and that upon