

The
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HIGH COURT DIVISION.

SUTHERLAND, J.

AUGUST 6TH, 1920

RE SPROWL.

Will—Construction—Moneys Payable under Mortgage—Husband and Wife—Part Payable to Executors of Wife—Appropriation to Bequest Made in Will of Wife—Evidence as to Intention of Husband—Inadmissibility.

Motion by the executors of the wills of John Sprowl and Jane Sprowl for an order determining a question arising under the wills and a codicil to the will of John Sprowl.

The motion was heard in the Weekly Court, Toronto.

H. N. Farmer, for the executors.

L. M. Goetz, for residuary legatees under the will of John Sprowl.

H. S. White, for the United Presbyterian Church at Manswood, legatee under the will of Jane Sprowl.

SUTHERLAND, J., in a written judgment, said that John Sprowl died in 1887. By his will, after giving certain specific legacies, he bequeathed to his son James and his five daughters all the rest and residue of his estate to be equally divided amongst them. By the codicil he gave to his wife "the interest on all moneys of which I shall be possessed at the time of my death during the term of her natural life to be paid to her by my executors, and hereby direct that all the legacies bequeathed by my said will shall not be payable until after the death of my said wife."

Jane Sprowl, the widow of John Sprowl, died in July, 1916, leaving a will by which she devised and bequeathed and appointed all the real and personal estate which she was seised or possessed of or entitled to or over which she had any power of appointment to the United Presbyterian Church at Manswood "absolutely and forever."