

TOWNSHEND, C.J.:—This is an appeal from the decision of DRYSDALE, J., passing the accounts of the trustees, and discharging one of them from the trust. The appellant, Kathrine Alice Jones, contended that in the accounts so taken and approved the trustees have not been charged with the value of her expectancy in certain real estate in the city of Toronto, in the sale of which the trustees concurred. There is no question that the sale was greatly for the benefit of all concerned, including the appellant. The appellant's claim arises out of the will of the late John Bell of Toronto. Her mother, Mrs. Nagle, is his daughter, and, among other things the will provides: "All the remainder of said property enumerated in schedule number one shall be disposed of by my said daughter amongst her legitimate children in such manner as she by her last will shall direct and appoint, and, failing such will, then equally among her children share and share alike."

A deed of separation was entered into between the appellant and her husband Alfred Ernest Jones 10th January, 1900, in which the trustees now seeking to pass their accounts were appointed. Under that deed, among other things, the appellant conveyed and transferred to the trustees all real and personal estate (except Bloor street property, so called, situate in the said city of Toronto) of every nature and kind and description, wheresoever situated to which the said party of the second part (the appellant) now is or at any time hereafter shall or may be or become entitled in possession, expectancy, reversion or remainder under the said will of her said grandfather, the said John Bell, and particularly all lands and premises and real estate (except the said Bloor street property, so called), situate in the city of Toronto aforesaid, mentioned in or described by the said will of the said John Bell. . . . In trust to sell, convey and dispose of the same, or any part thereof at public auction or by private contract or otherwise, and to collect, call in and realize, and convert the same into money whenever the said trustees in their discretion shall deem it expedient to do so, &c., &c."

The trustees on the 7th day of June, 1905, concurred in the sale of certain of the Toronto real estate, including a lot of land on King street, in respect to which Mrs. Nagle held a life interest with a power of disposing thereof at her death among her legitimate children in such manner as she