

considerable value, and the investments of the testatrix. It is given to the trustee to be held till the youngest surviving child attains the age of twenty-one years. The income is to be a fund to provide for the maintenance of the minor children. If there is a surplus, the husband may retain what is necessary to make up his income, derivable from the first trust devise, to \$600; and any residue then remaining is to go for the benefit of the child or children out of whose prospective shares the same may have arisen. When the youngest child attains the age of twenty-five, this second trust fund is to be then realised and the proceeds divided equally among the children and the issue of such of the children as may then be dead; a sufficient fund being set apart to maintain the income of the husband at \$600.

The will also contains a provision authorising the husband to spend \$150 per annum in continuing his life insurance.

The codicil appears to have been prepared by the testatrix herself, or by some one entirely unskilled in the preparation of legal documents. It is prefaced by the statement: "Not feeling satisfied with the provision made in my will for Bertha Hope Smith, my only daughter, I hereby add this codicil." This would lead one to expect that the codicil would confer an additional benefit upon the daughter. The testatrix proceeds: "I desire the sum of \$600 to be paid to her out of my estate . . . until she attains the age of twenty-five years. If at that time she should be married, then for the remainder of her lifetime to pay her \$400, unless the income realised through or by my property on division should yield more to each surviving child. Should such be the case, then I authorise such division to be made." The testatrix then proceeds: "Bertha having attained the age of twenty-five years as aforesaid, should Bertha remain unmarried then she is to be paid the sum of \$600 a year . . . for the remainder of her life."

These provisions, I think, concern entirely the income derived from the estate, save that Bertha is to receive her \$600 either from the income or from the corpus. The division referred to is a division of income and not a division of corpus. The estate of the testatrix, it is said, yielded by way of income about the sum necessary to pay the \$600 to the husband, the \$150 for life insurance, and the \$600 to Bertha; \$1,350 in all; so that the effect of this provision, unless the estate greatly increased in value, would be practically to tie up the whole estate during the lifetime of Bertha.

Bertha attained the age of twenty-five in the year 1905, and was then unmarried. She married on the 10th October, 1911,