

LATCHFORD, J.

DECEMBER 21ST, 1912.

## RE STANTON.

*Will — Codicils — Construction — Absolute Gift — Restrictions as to Mode of Enjoyment—“Reliance on Sense of Justice and Kindliness of Heart”—Precatory Trust—Dower—Election.*

Motion by executors for an order under Con. Rule 938 construing the will and three codicils of the late Edmund Patrick Stanton.

E. P. Gleeson, for the executors.  
 M. J. Gorman, K.C., for the widow.  
 D. O'Brien, for other legatees.

LATCHFORD, J.:—The opinion of the Court is sought on the following points: “1. As to whether the interest granted the widow under the original will of the deceased is restricted to a life interest by the codicils to said will.

“2. As to whether the widow is entitled, after payment of the debts and legacy of \$140 referred to in the codicil dated June 4th, 1903, to have an absolute transfer to her from the executors, of the corpus of the estate.

“3. In the event of it being decided that said entire corpus is not to be transferred to the said widow, what part of the said corpus, if any, are the executors and trustees authorised to transfer?”

Mr. Stanton died May 24th, 1912, and probate of his will and three codicils was granted October 17th, 1912.

By his will, dated May 12th, 1897, the deceased devised and bequeathed all the real and personal estate to which he should be entitled at the time of his decease to his wife Sabina, whom he appointed his sole executrix.

The first codicil—June 8th, 1901—modified the will only to the extent of substituting as executor, in the place of his wife, the Trusts & Guarantee Company; and the second—June 4th, 1902—merely bequeathed a legacy of \$140 to a sister of the testator.

By the third codicil, dated November 16th, 1911, the testator ratified his will, save in so far as any part of the will is inconsistent with the last codicil or with either of the two preceding codicils.

The codicil proceeds: