

HON. MR. JUSTICE RIDDELL.

OCTOBER 3RD, 1912.

WEEKLY COURT.

## RE STEELE ESTATE.

4 O. W. N. 80.

*Will — Construction — Motion for — Trustees — Investments —  
Income — Trustees' Discretion.*

Motion for construction of will of the late John Steele. The will gave \$2,000 to trustees to be invested and the income therefrom paid to the testator's daughter Loretta Steele while she lived and remained unmarried. The *corpus* was given over in case of her death unmarried or married without issue, but in case of her marriage with issue, it was to be paid to her at the trustees' discretion. Loretta Steele was married but had no issue and the question to be determined was whether she was entitled to the income of the fund during her life.

RIDDELL, J., *held*, (*dubitante*) that the income should be paid to Loretta Steele for her life.

*Bird v. Hunsdon* (1818), 2 Swans. 343 followed.

Motion by Catherine Loretta Smith (*nee* Steele), upon an originating notice, for an order determining a question arising upon the construction of the will of the late John Steele.

W. B. Northrup, K.C., for the motion.

B. N. Davis, for John Alex. Steele.

HON. MR. JUSTICE RIDDELL:—The late John Steele in a codicil to his will made the following provision:—

"I hereby revoke the bequest to my granddaughter Catherine Loretta Steele contained in the fourth (4th) paragraph of my said will and in place of said paragraph I hereby will, give, and bequeath unto my grandson John Alexander Steele of Sidney aforesaid, farmer, and Robert Fraser of the town of Trenton in said county of Hastings, Customs Officer, the sum of two thousand dollars (\$2,000.00) upon trust to place the same at interest either in some chartered bank in Canada or upon first mortgage upon lands in Ontario, and shall pay over the interest accruing therefrom from time to time annually or oftener to my said granddaughter Catherine Loretta Steele so long as she lives, and is unmarried, and if she dies without having married, or if married without issue then the said sum of two thousand dollars shall at her death go to and be paid over to my said grandson John Alexander Steele, and in case of his having died before such period then to such of