

purposes. There was nothing objectionable in the widow, during her widowhood and while supporting (or "keeping" as it is put in the will) the testator's children, sharing with them the income derived during her widowhood.

(3) The third question was, whether, according to para. 5 of the will, the executors were entitled to sell the real estate of the deceased. The meaning of para. 5 needed no explanation. The testator evidently intended that, should necessity arise for making a sale, the executors should have power to do so, exercising their judgment and the wise discretion which executors are required to use in the discharge of their duties.

(2) Question 2 was, whether, according to para. 4 of the will, the widow was entitled, if she remarried, to one-third of the estate absolutely or to the revenue only of one-third of the estate. The testator's direction was that, in the event of his wife marrying again, she should "take possession" of one-third of all—referring to his "properties movable and immovable." Though possession did not necessarily mean ownership, reading the whole will, the learned Judge was of opinion that what the testator intended was that his widow, in the event which had happened (her remarriage), should take absolutely one-third of the estate.

Order declaring accordingly. Costs out of the estate, those of the executors as between solicitor and client.

KELLY, J.

FEBRUARY 25TH, 1919.

RE COLBERT.

Will—Construction—Bequest of Residue to Specific Legatees in Proportion to the Amount or Value of their Legacies—Inclusion of Beneficiaries of Bequest in Trust of Sum of Money to "Purchase a Home"—Exclusion of "General Fund" of Church—Bequests of Mortgages—Interest Accrued and Unpaid at Testator's Death.

Motion by the executors of Thomas Colbert, deceased, for an order determining certain questions arising as to the construction of the will of the deceased.

The motion was heard in the Weekly Court, London.

P. H. Bartlett, for the executors.

F. E. Perrin, for Wesley Edwin Colbert and the other legatees having a like interest to his under the will.

W. R. Meredith, for George Colbert, Margarite Colbert, and Winnifred Colbert.