

the second question purists in the use of English will probably find a way of cutting the knot. Their answer will be that it means neither. They will object, in the first place, to the use of the word "unmarried" at all; and in the second place, they will say that if it means anything it means divorced. The prefix used reverses the meaning of the word to which it is prefixed, and does not act as a simple negative. If "untied" means with the tie unravelled, "unmarried" means with the marriage dissolved. But the draftsmen of wills are not sticklers for good English. They have an English of their own, which in general is good enough for their purposes if it is not obscure. If they avoid the word "unmarried" it is for its obscurity, even in its conventional sense, and not for its radical deficiencies in etymology. In any case, the draftsman had used the word, and it remained for the Court to give a meaning to it.

Mr. Sergeant, by his will dated June 22, 1846, directed his trustees to invest certain moneys, and to pay the income to his wife for life, and after her death to divide two-thirds of the principal "equally among the surviving unmarried daughters" of three of his wife's sisters, whom he named. The testator died a few days afterwards, and his wife lived until July 20, 1883. At the time of her death there were living four daughters of her three sisters mentioned in her husband's will. The two first were not married at the death of their uncle, the testator, but were married, with husbands alive, at the death of their aunt. The next, Mrs. Walley, was not married at the death of her uncle, but before her aunt died had married and become a widow, and the remaining daughter had never been married at all. The history of the family, in fact, seems to have been arranged with a view to ring the changes on the several meanings of the word "unmarried." The first two ladies, of course, could not take any benefit unless the description referred to the time of the testator's death, at which time they were "unmarried" in both senses, although at the time of their aunt's death they were not "unmarried" in any sense, including the unconventional sense alluded to at the outset. So little

hopes had they of persuading the judge that the testator referred to that period of time, that they were not represented by counsel, and gave up their chance. The last of the daughters mentioned, who had never been married at all, did appear by counsel, who, of course, was "not heard," as his client answered all the possible meanings of the word, and was unmarried in both senses both at the death of her uncle and the death of her aunt. There remained the lady who had married and become a widow between the deaths of her uncle and her aunt. This lady was, of course, unmarried at the uncle's death, and her counsel suggested that this fact was enough. This, however, could hardly be, as "surviving" evidently meant surviving the aunt. He, therefore, fell back on the contention that "unmarried" meant, not "never having been married," but "without a husband." This view, also, Mr. Justice Pearson was unable to take. In a colorless will, said the learned judge, the word meant never having been married, although in certain cases the Court had, in order to prevent the intention of the testator being defeated, interpreted it to mean without a husband. He was unable, however, to see that it meant without a husband in this instance, and he added, "The reason why the unmarried daughters are selected and the married daughters left out, I think, is that when a lady who is a spinster marries, some provision is usually made for her, either by her own relatives or by her husband." In other words, the testator meant to confine his bequest to nieces who had never been advanced to matrimony at all, which was probably his intention, and, undoubtedly, in accordance with the conventional meaning of the word.

The advice deducible from the case to draftsmen about to use the word "unmarried," is not to use it all. The word is indefensible etymologically, and obscure even in its vulgar use. But what is the draftsman to use in its place. Those who are careless of style use the periphrasis "not having married," which is clear but clumsy. There seems no reason that the good old English word "spinster" should not be used, being as it is the legal title of a person who is