

his real and personal property to his wife, the vendor, adding this clause: "It is my desire that she takes good care of all my children as much as it is possible to do, and I also desire that at her death she will divide the estate that I now give her among our children in the most just manner possible." It was argued that this constituted a precatory trust, and that it operated to cut down the gift to a life estate, with a power of appointment among the children. The learned Judge said that at one time this would probably have been so; but the tendency of the more recent decisions was all the other way. In this will the gift to the wife was absolute, and the clause quoted recognised this and fell far short of what was now regarded as necessary to cut down the absolute estate given. In addition to the cases referred to by the Chancellor in *Johnson v. Farney*, ante 969, the learned Judge referred to *In re Williams*, [1897] 2 Ch. 12, and *In re Oldfield*, [1904] 1 Ch. 549. No costs between the vendor and purchaser. Costs of the Official Guardian to be paid by the vendor. F. D. Davis, for the vendor. Grayson Smith, for the purchaser. J. R. Meredith, for the Official Guardian.

McNAIR v. McNAIR—MASTER IN CHAMBERS—APRIL 11.

Husband and Wife—Alimony—Interim Order—Husband without Means.]—Motion by the plaintiff for interim alimony and disbursements. The plaintiff made affidavit that the defendant once said that he was worth \$90,000; but no particulars were given, nor was any specific asset mentioned. The defendant, at the time of the application, was at Reno, in Nevada, where he was engaged in procuring a divorce. His affidavit stated that he was wholly without means and without employment and was living on loans from his friends; and that, though daily seeking employment, he was unable to obtain any. The Master said that, in these circumstances, the case did not differ from *Pherrill v. Pherrill*, 6 O.L.R. 642, where it was said: "It would be useless to make an order against a man who has no property on which it could operate, and where there is no evidence as to his earning power." Where, as here, the defendant is out of the jurisdiction, this principle seemed even more applicable. Motion dismissed, leaving the plaintiff to take the matter higher or proceed to trial as might be thought best. A. J. Russell Snow, K.C., for the plaintiff. R. McKay, K.C., for the defendant.