

In his codicil, after reciting that he had bequeathed to his son William George one-half of his estate, after payment to his daughter Margaret her one-third share, he declared it to be his will that, "instead of my said son being bequeathed the said one-half of the residue as aforesaid, he be and he is hereby bequeathed the sum of \$1,500 in cash and the one-third part or share of the proceeds of the sale of my said residue, the balance to be divided between my said daughter Margaret Jennie Corkett and my son Cecil Mansfield Corkett according to the terms and conditions specified as to the other bequests made by my said will."

The questions submitted in the notice of motion do not cover the grounds taken in argument, as to the construction of the will. I am of opinion that, by the true construction of the will, the expense for the maintenance of the dwelling-house as a residence for the children for the period limited by the will should be paid out of the income of the estate, if that be sufficient, as it would appear that it is, and, if not sufficient, out of the corpus.

That such support shall continue for the benefit of the three children until Margaret arrives at the age of twenty-one years, when she shall receive \$1,000, and that the interest upon the residue shall then be applied for the support, maintenance, and education of all the children until Margaret arrive at twenty-six years of age.

That she is then entitled to receive one-third of the residue of the estate, after deducting \$1,000 previously paid to her; that is, as I understand the rather obscurely expressed will, that, whatever the residue may be, she is entitled to one-third of that; but, inasmuch as she has received the \$1,000, that sum is to be deducted from her share. Thus, if the residue before the \$1,000 was paid was \$6,000, she would be entitled to \$2,000, and, having received \$1,000, she would be entitled to the balance of \$1,000. It does not mean, I think, that the \$1,000 paid to her is to be first deducted from the residue, that from that sum then she is to receive one-third, and that the \$1,000 should again be deducted from it. That would, in effect, be deducting the \$1,000 twice.

I am also of opinion that the children Margaret and William George are entitled to what is a fair allowance for their maintenance, whether that maintenance, support, and education be upon the premises or not. In case the parties differ as to what a reasonable sum would be, the Surrogate Court may adjust that matter in settling the accounts of the executors.