

to or considered by the Chief Justice, but it is a fair and reasonable conclusion to be drawn from the language of the will construed in the light of the surrounding facts known to the testator when he made his will, and at the time of his death.

He knew that his wife would need support and maintenance, and he left her all his property for her life for that purpose. He also knew that the income of the estate, while enough perhaps for a woman able to fend for herself, would be insufficient for one blind and infirm, and he knew that after paying debts he would leave plenty of easily available property, which he refers to as "funds," to pay the \$3,200 legacies in full, if that available property were not diminished by being drawn upon. Under the terms of this will the widow is entitled to enjoy the whole property in specie and the money in her hands and coming into her hands from the notes and mortgages so much as she might need to apply for the satisfaction of her own proper wants. Such it appears to me is the only satisfactory explanation to be given of the language used by the testator. The income of \$350 is not enough, rather would about \$600 be required per year to have this blind woman properly looked after and supported. To this extent, a measurable extent, is the widow permitted to exercise power to encroach upon the moneys of the estate.

The case laid is in a somewhat confused condition upon this branch, yet many decisions support this conclusion.

The most recent case cited, *Re Dixon*, is not of authority because only found in the *Weekly Notes*, Vol. 56 p. 445 (February, 1912) by Mr. Justice Neville. The will was of all the man's estate to his wife during widowhood, and at her death or remarriage the residue to be divided between children. The Judge held that "residue" had the same meaning as "remainder" used and construed in a will before Mr. Justice Kay, *Re Holden*, and followed him in declaring that the widow had a life estate only. This throws us back to consider *Re Holden* (1888), 57 L.J. Ch. p. 648, which cannot be regarded as a satisfactory decision. The will gave the personal estate to the widow for her own use as long as she might live, and on her death directed the remainder of the personal estate which might then exist should be made money, and given to brothers and sisters. It was argued that the words "remainder which might then exist" implied some power of disposition during her life. Kay, J., said:—Did the testator mean to give his wife more than a life estate? I confess that I strongly suspect that he did. The words (as to remainder) look as if he were contemplating a