

Motion by Nelly Robinson, wife of W. F. Robinson, and John Pardon, for an order declaring the true meaning and effect of the will of Albert Pardon, deceased.

The motion was heard in the Weekly Court, Toronto.

G. R. Munnoch, for the applicants.

L. M. Keachie, for the administrator with the will annexed.

W. J. Hanley, for Jennie Dodds.

ORDE, J., in a written judgment, said that the testator died while serving in the Canadian Expeditionary Forces in France. The will was made upon a printed form provided by the military authorities. It commenced with a clause revoking all former wills and declaring this to be his last will. Then followed, in printed words, "I bequeath all my real estate unto," followed by a blank, and then, in print, "absolutely, and my personal estate I bequeath to," followed by another blank. Opposite the two blanks were the printed directions, "Name and address of person or persons to whom it is to go" and "Name and address of person or persons to receive personal estate (see note)." The operative part of the will, including all the printed as well as the written portions, read:—

"6000 shares Moose Horn mining stock

"I bequeath all my real estate unto

"\$1000 to Miss Jennie Dodds, Calgary, Alberta.

"Remainder to

"Mrs. W. F. Robinson (sister), 52 Emerson Ave., Toronto.

"John Pardon (brother) now serving with 228th Bn. C.E.F.

"absolutely, and my personal estate I bequeath to

"Pte. John Pardon, now serving with 228th Bn. C.E.F."

The portions in italics are the printed portions.

Any difficulty which might have arisen by the contradictory gifts of the remainder to the testator's brother and sister and of all his personalty to his brother was removed by an agreement between them and the administrator that, after the payment of debts and funeral and testamentary expenses and the satisfaction of whatever bequest was made to Jennie Dodds, the estate should be equally divided between the brother and sister.

Jennie Dodds contended that by the will there was bequeathed to her 6,000 shares of the Moose Horn mining stock and an additional \$1,000. The brother and sister contended that the testator intended to give only the 6,000 shares and that the "\$1,000" must be read as merely indicating the value of the shares.

The printed words "I bequeath all my real estate unto" were meaningless and might be disregarded.