

and others not party to this litigation, without any advantage to the wife.

The principle is, that discovery is confined to matters relevant to the issues to be tried. A defendant can always narrow the right of examination by so pleading as to narrow these issues.

The order should be affirmed; no costs.

SUTHERLAND, J.

FEBRUARY 4TH, 1920.

RE BARNES.

*Will—Construction—Bequests to Wives and Children of Testator's Sons—Assignments of Children's Shares to Mothers—Division of Property—Account—Discretion of Executors.*

Motion by the executors and trustees under the will of Philander Barnes, deceased, for an order determining certain questions arising in the administration of his estate as to the meaning and effect of portions of the will.

The motion was heard in the Weekly Court, Toronto.

R. W. Treleaven, for the executors and trustees.

J. S. Lundy, for Elizabeth Barnes, Eliza J. Barnes, and Percy P. Barnes.

A. L. Reid, for Nicholas Kupper.

SUTHERLAND, J., in a written judgment, said that the testator, after providing for the payment of debts and certain bequests, (1) directed his executors to sell and convert all his residuary estate, both real and personal, into money, and out of the proceeds to set apart one-third and invest it and pay the income to the testator's wife, Elizabeth Barnes, during her natural life, in lieu of dower. Clause 2 was as follows: "I give devise and bequeath the remaining two-thirds of my residuary estate to my said executors to be by them divided as follows: I direct my said executors to divide the same into three equal parts and they shall give the same as follows: (a) one-third part thereof to be given to the wife and children of my son Ebenezer Barnes in such shares as my executors or a majority of them may think proper; (b) one-third part thereof to be given to the wife and children of my son John Barnes in such shares as my executors or a majority of them may think proper."

The testator died on the 24th September, 1911.

At the death of the testator, Ebenezer Barnes was living, and also the latter's wife, Eliza J. Barnes, and their three children,