

TEETZEL, J.

MARCH 3RD, 1909.

WEEKLY COURT.

RE SISSON.

Will—Construction — Annuities — Income—Distribution of Estate — Hotchpot—Increase or Diminution of Annuities—Surplus—Ratable Distribution.

Motion by the executors of the will of William Sisson for the opinion and direction of the Court upon the following questions with regard to the construction of the will:—

(1) Are the annuities given by the will to the various children of the deceased payable out of income only?

(2) Do the children to whom the widow of the said William Sisson has devised property have to bring only the income of property received from their mother into hotchpot, or do they have to also bring the capital?

(3) Is the annuity given to Georgina to be increased beyond the sum of \$400 by reason of a surplus of income over the above the amount required to pay the annuities provided for in the will of William Sisson?

(4) Are the annuities given by the will to be proportionately increased by the surplus income under the will and by any income under the will of the widow brought into hotchpot, or is such surplus income over and above the amount of the annuities to become capital, or is there an intestacy as to the same?

(5) Is Eugene Sisson, who takes under the wills of his two brothers property formerly belonging to the widow, obliged to account to the executors of William Sisson for the principal or income from such property, and to bring the same into hotchpot with the surviving children entitled under William Sisson's will, or is Eugene Sisson entitled to such property (principal and income) for his own absolute use?

(6) The income derived from the investments of the combined capital of William Sisson's and his widow's estates in certain years not being sufficient to pay each annuitant in full, can the deficiency in such years be made up out of the surplus income of subsequent years, and in what order should such payments be made?