

SUTHERLAND, J.

JUNE 26TH, 1915.

## RE DEVINS.

*Will—Construction—Devises to Sons—Misdescription of Lands—General Intention—Falsa Demonstratio—Lands actually Owned by Testator Passing to Devisees—Residuary Clause—Annuity to Widow—Charge on Lands Devised—Bequests in Lieu of Dower.*

Motion by the executors of James W. Devins, deceased, for an order determining questions arising upon the terms of the will of the deceased, in the course of the administration of his estate.

The testator devised to his son Freeman Clarence Devins the north half of the east half of lot 2 in the 6th concession of Vaughan, subject to a legacy of \$1,000 to be paid to the testator's daughter Armenia Elizabeth Devins; to his son William James Devins, the south half of the east half of lot 2, subject to a legacy of \$1,000 to be paid to another daughter; he also directed his sons, Freeman Clarence, William James, and George John, to pay to his (the testator's) wife \$60 each per year during her lifetime, "in lieu of her dower in my estate or so long as she remains my widow;" the residue of his estate he devised and bequeathed to his three sons in equal shares. He also devised to his son George John part of lot 1 in the 6th concession, subject to a legacy of \$1,000 to a daughter. Other clauses gave the wife a house and lot, the proceeds of an insurance policy, and household goods. The testator did not own the east half of lot 2, but did own the west half.

The motion was heard in the Weekly Court at Toronto.

A. G. Browning, for the executors.

J. Gilchrist, for the widow.

A. J. Anderson, for Freeman Clarence Devins.

J. R. Meredith, for the infants.

SUTHERLAND, J., in a considered judgment, said that it was plain from the language of the will generally, that the testator intended to devise his real estate, apart from the house and lot devised to his wife, among his three sons in such a way that each would receive one parcel, subject to a legacy in favour of a named daughter, and that it was also plain that it was the part of the north half of lot 2 which he owned that he intended to devise to Freeman, and the part of the south half which he owned that he intended to devise to William; the words "the east half" should