

MIDDLETON, J.

DECEMBER 24TH, 1918.

RE WINN.

*Will—Construction—Legacies to Married Women, to be Settled upon them for their Separate Use—Payment to Legatees Directly.*

Motion by the executor of the will of Helen Maria Winn for an order determining the meaning and effect of the 6th clause.

The motion was heard in the Weekly Court, Toronto.

T. D. Leonard, for the executor.

G. G. S. Lindsey, K.C., for several of the nieces of the testatrix and for creditors of the nieces.

J. W. Carrick, for C. G. Heward, a nephew.

K. W. Wright, for the Inspector of Prisons and Public Charities.

MIDDLETON, J., in a written judgment, said that the 6th clause directed all bequests and legacies in favour of nieces to be "settled upon the said nieces for their separate use in such manner and subject to such terms as my executors shall deem expedient."

The nieces desired the legacies and bequests to be given them absolutely, and contended that the only thing required by the will was that the legacies or bequests should be given them for their separate use, i.e., free from the control of their husbands.

The executor did not object to this, and did not desire to impose any terms and conditions upon payment unless required by law.

In this will no intention was expressed that the property was to be held for the nieces in such a way as to prevent anticipation or to benefit issue; and, in the absence of such intention, there was no reason why payment should not be made to the nieces direct, as, under the law as it now stands, they take their own property as separate estate.

Costs of all parties out of the estate, to be charged pro rata against the legacies and bequests concerned.