

entitled to receive the whole of the fund bequeathed to her or that she can be called upon to account for the mode in which she may have expended it.

While it may probably have been intended by the testator that the legatee should temporarily keep up the house in which he was living at the time of his death, and that his other unmarried daughter should continue to live with her in it, there is nothing in the language of the paragraph in question to create a duty on the part of the legatee to keep up the house or to maintain it as a residence for herself and her sisters, or to indicate that anything but a benefit personal to the legatee was intended.

What the paragraph means, I think, is that whatever money there should be at the time of the testator's death in the places mentioned, whether it should be more or less, should belong to the legatee to enable her to meet the immediate current expenses in connection with housekeeping; and to treat the provision as meaning that a fund was created out of which the legatee was to pay the testator's household debts and "all that could fairly be regarded as falling within that designation during a reasonable time after his death, pending the family reorganization" is to read into the will something which, with great respect for the contrary opinion of my brother Middleton, the testator has not said, and which the language he has used to express his intention does not import.

I would vary the order appealed from by substituting for the declaration contained in its third paragraph a declaration that Sarah Frances Barrett is entitled under the provisions of the 26th paragraph of the will to receive absolutely all money which the deceased, at the time of his death, had at his credit in any bank or upon his person or in his domicile, and with that variation I would affirm the order.

The costs of all parties of the appeal, those of the executors between solicitor and client, should be paid out of the fund.

HON. MR. JUSTICE MACLAREN, HON. MR. JUSTICE MAGEE, and HON. MR. JUSTICE HODGINS agreed.