

strongly supporting his case; but these are more than offset by the affidavits in answer; and the Police Magistrate, who is a careful and experienced man, has had the great advantage of seeing the witnesses and hearing the oral evidence; and his view is not lightly to be interfered with. Quite apart from this, my own view is that the children are better as they now are.

MIDDLETON, J.

JUNE 30TH, 1914.

RE MILLER.

*Will—Construction—Absolute Gift—Subsequent Words Cutting down—Effect of—Gift over—Failure.*

Motion by the executors of Sarah E. Miller, deceased, upon an originating notice, for an order determining a question arising as to the construction of her will.

F. P. Betts, K.C., for the applicants.

T. G. Meredith, K.C., for the next of kin of William B. Chase, deceased.

T. Coleridge, for the residuary legatees under the will.

MIDDLETON, J.:—By her will, dated the 4th March, 1904, Sarah E. Miller, who died on the 23rd February, 1911, after certain minor bequests, gives her property to her brother William B. Chase, "with power to sell and dispose of as full as I could do now my real estate consisting of houses 147 and 151 on Horton street in the city of London and seven lots in Knowlwood Park near the city of London and three lots in Oxford Park also in and near the city of London and it is my will and intent that my said brother William B. Chase shall use so much of the proceeds of my property as shall be necessary to provide a comfortable maintenance for him during his lifetime and that if any of my property or the proceeds thereof shall not be necessary for the comfortable maintenance of my said brother and shall remain at his death then such part so remaining shall be divided equally between my niece Sarah Smuck and my nephew LeRoy Chase." The brother, William B. Chase, was appointed sole executor of the will.

Chase was a paralytic; and evidently the main object of the