

and it has been held that periodical payments only can be ordered. (*Re Mailes*, 1908, V.L.R. 269; *Re Bennett*, 1909, V.L.R. 205): In New Zealand and New South Wales the provision ordered by the court is inalienable without the leave of the court; in Victoria the court may, but need not, impose a restraint on alienation (*Re Mailes*, *sup.*).

The discretion of the court is left unfettered—the provision is to be such “as the court thinks fit”—in New Zealand and New South Wales. In Victoria a widow is not to receive more than £1,000 a year, nor more than her income would have been had her husband died intestate. There is here very obviously a wide field for the creation of case law in the approved English fashion in order to determine the proper limits of the judicial discretion conferred by the statutes. Already some twenty cases (chiefly on the New Zealand statutes) have been decided by the courts upon the subject. As might perhaps have been expected, the statutes have been relied on, and the courts asked to make provision under them, in a considerable number of cases where a second marriage had taken place and the children of the first marriage left out in the cold. In more than one case Judges have referred to the statutes as casting upon the court a duty of extreme difficulty, and unedifying family quarrels have sometimes been brought to light. The latter kind of case is illustrated by one in New South Wales—*Re Harris* (1918, 18 State Rep. 303). Some general principles have, however, been laid down, and these (as formulated in a New Zealand case), have been approved by the Privy Council: (*Allardice v. Allardice*, 106 L.T. Rep. 225; (1911) A.C. 730).

In this case the testator died worth £20,000. He left a family by a first wife unprovided for, among them three married daughters. The New Zealand Courts ordered £60 a year for life to be paid to one daughter and £40 a year for life to each of the other two. It was laid down by the New Zealand Court of Appeal that the court was not empowered to make a new will for a testator, but could only provide for proper maintenance and support of “widow, husband, or children” where adequate provision had not been made by the testator, and that the standard for the court to be