

FALCONBRIDGE, C.J.K.B.

NOVEMBER 27TH, 1916.

RE CHAMBERS.

*Will—Construction—Specific Bequests Followed by General Bequest
—Modification or Revocation—Lapsed Legacy—Residuary
Bequest—Devise of Real Estate Subject to Legacies—Executors
—Sale of Land—Public Auction.*

Motion by the executors, upon originating notice, for an order determining questions arising upon the will of Mary Elizabeth Chambers, deceased.

The clauses of the will upon which the questions arose were as follows:—

(1) I desire my executors hereinafter named to pay all my just debts funeral and testamentary expenses as soon as convenient after my decease.

(2) I will devise and bequeath unto my beloved niece Lillian Flindall . . . my household furniture bed and bedding and knick-knacks absolutely.

(3) I will devise and bequeath unto my said niece Lillian Flindall my real estate (which shall be sold to the best advantage by my executors) subject to the legacies hereinafter mentioned.

(4) I will devise and bequeath unto my niece Bessie (formerly Bessie Casey) the sum of \$1,000 absolutely.

(5) I will devise and bequeath unto the children of my deceased sister Sarah Platt my personal estate subject to the legacies hereinafter named.

Then followed a number of specific bequests of personalty, one of which, a bequest of \$200 to Alice Ward, had lapsed on account of her predeceasing the testatrix.

The questions submitted were as follows:—

1. Is the bequest in clause (2) of the will revoked or governed by clause (5)?
2. Is the real estate bequeathed in clause (3) subject to all the legacies mentioned thereafter in the will or only to clause (4)?
3. Is the bequest of \$1,000 in clause (4) revoked or governed or affected by clause (5)?
4. Are not the children of Sarah Platt the residuary legatees?
5. Tenders having been called for by the executors for the real estate, and none having been received, are the executors now justified in selling the same by public auction?
6. Who is entitled to the lapsed share of Alice Ward?