

Con. Rule 368 applies only to business properly brought before the Judge in Chambers: *Re Reid*, supra; and Con. Rule 47 restricts the power of the local Judge to certain particular kinds of motion unless the parties agree or the solicitors for all parties reside in the county. Here the petitioners had no solicitor, and they did not consent.

I do not forget that the petitioners were not formally parties to the action, and that the solicitors for all those who were formally parties did reside in the county; but I think before an order can be made by a local Judge binding those not formally before the Court, they must either agree that the motion be heard by him or have a solicitor residing within the county at least.

The order for representation will be set aside, and also all orders and judgments based upon this order, except so far as they affect the individual defendants.

No costs.

RIDDELL, J.

NOVEMBER 5TH, 1909.

RE STORY.

Will—Construction—Bequest to Wife of "Benefit" of Property during Widowhood—Fee Simple in Land, Subject to Divesting on Marriage—Use of Personal Property—Disposition of Part not Used.

T. M. S., dying in 1906, left a will dated in 1905, containing the following: "I will and bequeath to my wife R. S. all the furniture and everything in the house at my death. I also will that my wife R. S. do have the benefit of all my real and personal property particular all monies as long as she remains my widow: and in the event of her having any of my money at the time of her death, the same shall be divided amongst my children or their heirs equally." J. W. and R. S. were appointed executor and executrix.

The estate consisted of land valued at \$250, household furniture, book debts, cash in bank \$333.80, and a mortgage dated 18th July, 1905, for \$2,500, to become due in annual payments of \$100 each without interest, on which \$2,300 was owing.

The widow desired to be paid the instalments as they became due and were paid, but the executor thought she was entitled to the interest thereon only.

Both desired the opinion of the Court.