

out the provisions of the will and the facts with regard to the administration of the estate by the executors. The estate was of about the value of \$62,000. The learned Judge was of opinion that the scheme of the will was to provide that after payment, of two legacies of \$4,000 and \$500 and making over chattels specifically bequeathed, the residuary estate should constitute one trust fund, to be dealt with by the executors in the manner pointed out in clause 10 of the will, which contemplated the disposition of \$48,000, the payment of two legacies of \$5,000 each to charities, and the creation of three trust funds for the principal beneficiaries. The residuary estate did not include the dwelling-house of the testator. If the trustees had set apart the three funds, any loss resulting from the administration of the estate would have to be borne by the particular fund in which the loss occurred. As two of the three funds were never set apart, when the widow died, and the executors sought to distribute, they had no right to discriminate so as to allocate unquestionable assets entirely to one fund and throw doubtful assets into the other. The residuary estate was left to the Guelph General Hospital, to which also \$12,000 was bequeathed, and nearly the whole sum had been paid to it. The gift of the house was intended to be residuary so far as the hospital was concerned, and the proceeds of the house (not yet sold) must in the first place be used to make good the trust fund as far as there may be any shortage upon realisation. The assets as yet unrealised must now be realised upon by the Master. If, upon realisation, the granddaughter cannot receive the same proportion of her legacy (\$20,000) as the hospital received of its \$12,000, the executors should be declared liable to her fund for the amount of the deficiency; the default to be made good before the trustees can receive anything on account of commission or costs. Certain other matters arising upon the appeals were dealt with by the learned Judge. In the result, the case was referred back to the Master to realise upon the assets for the purpose of providing the fund for Marjorie K. Harley; the Master to ascertain by how much each of the three funds should abate and to readjust the account in accordance with the rulings upon the appeals. Costs of all parties of the appeals to be paid out of the estate in such a way that they shall be charged pro rata against the three funds; but no costs should be paid to the executors, to the hospital, or to Frank Harley, until the amounts for which the trustees are liable, and which ought to be refunded by the hospital or Frank Harley, are made good. The losses, the expenses of administration, and costs, must all be borne pro rata by the three funds, and cannot be cast upon Marjorie K.