

BRITTON, J.

JANUARY 27TH, 1913.

RE ERSKINE.

Will—Construction—Annuity to Widow—From what Part of Estate Payable.

Motion by the Union Trust Company Limited, the executors and trustees under the will of John Erskine, deceased, for an order, under Con. Rule 938, determining certain questions arising upon the construction of the will.

The will was dated the 22nd December, 1905; and the testator died on the 18th June, 1906.

The testator directed that all his just debts and funeral and testamentary expenses should be paid by his executors as soon as convenient after his decease; he appointed the trust company executors and trustees, and then proceeded:—

"I give devise and bequeath all my real and personal estate of which I may die possessed in the manner following that is to say.

"To my wife Isabella Erskine I give devise and bequeath during the term of her natural life the premises known as house number 14 Saint Vincent street in the city of Toronto aforesaid free from taxes together with the contents of same also the sum of four hundred dollars (\$400) yearly to be paid to her in monthly instalments so long as my estate will pay the same.

"To my son John Alexander Erskine I give devise and bequeath the sum of one hundred dollars (\$100) and the south half of lot number five (5) concession five (5) in the township of Bryce in the district of Algoma and Province aforesaid.

"To my sisters Anne Hill and Agnes Erskine I give devise and bequeath the sum of one hundred and fifty dollars (\$150) each.

"I direct my executors to pay off the existing mortgage on my above-mentioned Saint Vincent street property out of the proceeds of my life insurance.

"At the decease of my said wife I direct that the proceeds of the residue and remainder of my estate both real and personal including my said house and contents be divided equally between my said sisters Annie Hill and Agnes Erskine and my said son John Alexander Erskine share and share alike or the survivors or survivor thereof.

"I hereby empower my executors in their discretion to sell and dispose of any or all of my real estate and to execute conveyances thereof."