

and still is a creditor; the husband by the will acknowledges the debt, and, in addition, charges it upon his real estate.

This may be so declared. Other questions may arise in connection with this sum, but counsel stated that they were not yet ripe for determination, so that the present declaration will be limited as above indicated.

Costs of all parties will come out of the estate.

MIDDLETON, J.

JANUARY 27TH, 1914.

RE REBECCA BARRETT.

Will—Construction—Gift to Daughters—Annuity out of Rents of Land or Estate Tail in Land—Bequest to Granddaughter—Increased Rental—"Out of the Rental"—"Issue"—Limitation to Children—Residuary Clause—Tenants in Common.

Motion by the executors for an order determining a question as to the construction of the will of Rebecca Barrett, arising in the administration of her estate.

H. S. White, for the executors.

F. Arnoldi, K.C., for Mrs. Mossom, a daughter of the testatrix.

W. N. Tilley, for the other daughters.

I. F. Hellmuth, K.C., for the sons.

W. J. Boland, for Mrs. E. M. Russell, a granddaughter

MIDDLETON, J.:—The testatrix died on the 3rd August, 1893, leaving her surviving her husband (who died on the 2nd October, 1913), five sons, and four daughters, who now survive. Another daughter has, since the testatrix's death, died, unmarried and without issue. The granddaughter, Edith Emily, is now Mrs. Russell.

By the will of the testatrix, she first gave her husband a life estate in all her real and personal property. The difficulty arises in the clauses which operate upon his decease. These clauses are as follows:—

"I give and bequeath out of the rents and profits payable from all and singular the real estate at present owned by me, under and by virtue of the devise in that behalf contained in the will of my late father Lardner Bostwick, and consisting of