

provided for a forfeiture of his rights under the will for default or failure—a thing which could not occur after his death, because such rights, being for life only, died with him.

By clause 16, the testator directed that, if Crowell should carry out the conditions of the will and make all the payments, at his (Crowell's) death his (Crowell's) children should share in the estate, and he gave directions to his executors accordingly.

The Chief Justice said that clause 16 was applicable only if Crowell made all the payments which under the will he was to make. Death prevented that, taking from him, and his, the property for the use of which the payments were to be made; and ended the existence of such legacies as a charge upon the property, but not otherwise.

By clause 14, the testator gave to his wife all the residue of his property for her use during her lifetime; and, after her decease, he gave it to his son Thomas and his three daughters share and share alike.

The Chief Justice said that clause 14 could be applicable only in case of the will failing to provide for the disposition of that part of the estate in the event which had happened. Having regard to the whole will, this clause applied only to any property the testator might have which was not mentioned in the will.

Having regard to the whole will, it was plain that the testator intended to make provision for his widow's maintenance, to some extent, during her whole life. If the farm were sold during her life, she should have the income from the proceeds instead of the \$40 and firewood. The legacies to the testator's children and grandchild were to be paid in any event. The residue should be divided and paid as in the will provided. No opinion was expressed regarding any claim to a share that might be made by the children of Crowell.

If the parties should be unable to agree upon a present distribution of the part of the estate in question, the money in the executor's hands, representing it, should be paid into Court to the credit of the persons entitled to it.

Costs of this motion, to all persons represented upon it, out of the estate.