

divide what is left of it equally among by brother and sisters, and her brothers and sisters."

The husband died in 1907, leaving about \$10,000 worth of property: the wife died in 1912, and her property is about \$17,000. They had no children. A year or so after her husband's death, the widow spoke of the provisions in his will being just and fair to both families, and she wanted it carried out.

But five years after his death, she apparently changed her mind, and thought fit to give all her property among the members of her own family. I think she had the power and the right to do this, and that no trust is imposed upon the property devised to her by the husband. The codicil implies that she had testamentary power over what came from her husband, and his direction was only if she died intestate, and what would have happened had she died intestate need not be discussed. But in the will, the expression used is that of a wish, not a direction, and according to the present lines of decision, the language is insufficient to create an obligation, i.e. a legal obligation enforceable in the Courts.

As said in one of the later cases, the husband may have thought that the influence of an express wish would be sufficient to induce the wife to apply the property, in the way suggested, but it was not put upon her as a duty, a mandate, or a legal obligation. He did not mean the second stage of the transfer, to be under his will, but to be bestowed under the influence of his expressed wish, and by the testamentary act of the wife. His words taken literally, would cover all the possessions of the wife, however acquired, and this shews that he did not seek to control her free action, but only to give advice, as he does in so many other parts of the will, and codicil which need not be quoted.

The earlier cases on precatory trusts have been departed from, and a stricter rule now obtains, which may be thus expressed: an absolute gift is not to be cut down to a life interest, merely by an expression of the testator's wish, that the donee shall by will, or otherwise, dispose of the property in favour of individuals, or families indicated by the testator.

A wish or desire so expressed, is no more than a suggestion to be accepted, or not, by the donee, but not amounting to a mandate or an obligatory trust. This is the result