

"To my son, Isaiali Ouderkirk, the sum of six hundred dollars.

"To my son, William Ouderkirk, the sum of six hundred dollars.

"The sum of three hundred dollars to be laid aside for the purpose of paying the funeral expenses of myself, my wife and my daughter Mildred.

"All the residue of my estate not hereinbefore disposed of, I give, devise and bequeath unto Simon Ouderkirk, Isaiah Ouderkirk, and William Ouderkirk, share and share alike.

"And I nominate and appoint Isaiah Ouderkirk and William Ouderkirk, my sons, to be executors of this my last will and testament."

The questions presented were:

(1). Is the widow entitled to dower out of the lands of the deceased in addition to the provision made for her in the will?

(2). Is the widow entitled to a lien upon the whole estate of testator to secure to her the annuity of \$200 a year?

(3). In the event of the income from the testator's property being insufficient to pay the widow's annuity, is she entitled to look to the corpus to make up any deficiency?

(4). Can the executors apply any part of the income for the benefit, or support, or maintenance of the infant mentioned?

As to the first question:

Robert Smith, K.C., for executors.

D. B. McLennan, K.C., for widow Jessie Ouderkirk.

Alex. L. Smith, for official guardian for infant Mildred Ouderkirk.

HON. MR. JUSTICE BRITTON:—The strongest case that I have been able to find in favour of the widow's contention is *Re Hurst*, 11 O. L. R. p. 6.

Unless this case can be distinguished from *Re Hurst*, the widow will be entitled to dower in all the lands except the house and lot in Berwick.

I think this case is distinguishable.

The test seems to be: "Is there such reasonable provision made by the testator for his widow as warrants the inference that such provision was intended to be in lieu of dower."