

MIDDLETON, J.

JUNE 12TH, 1916.

RE HOLMES.

Will—Construction—Charitable Gifts—Division among Beneficiaries—Remuneration of Executors—Originating Notice—Dispensing with Service on Sunday Schools and Missionary Societies.

The executors of a will, having launched a motion, upon originating notice, for an order determining certain questions arising as to the construction of the will, moved for directions as to service of persons interested.

The motion was heard in the Weekly Court at Toronto.
W. Lawr, for the executors.

MIDDLETON, J., said that the remedy was worse than the disease. Three questions were suggested:—

First, a legacy of \$500 was given to "The Protestant Sabbath Schools of Ontario." If divided, this would not cover the postage incident to its transmission. There was an incorporated body, "The Ontario Sunday School Association;" the money might well be paid to it, and so some real good might follow.

Second, the sum of \$500 was given to Ontario Protestant Home Missionary Societies. This might well be divided among the Anglican, Baptist, Presbyterian, Methodist, and Congregational bodies—\$100 each. The deceased, it was said, had no denominational preference; and this would probably well satisfy such a reasonable man.

Lastly, the deceased appointed three executors, and added: "They shall each have \$150." These gentlemen wished to know if this was in addition to the compensation they would otherwise have. Clearly this was intended to be their sole remuneration.

The learned Judge said that he found no need of any notice being given to all the Sunday Schools or to any one to represent them, nor to the various Home Mission Societies; and so he construed the will, dispensing with notice. To do otherwise would be to make the legal profession the chief participants in the estate, and nothing in the will indicated that that was the testator's intention. As the executors were empowered to give the residue "unto such persons as they wish to have it," there was no reason why they should not make a present to their legal adviser if they saw fit—but no order to that effect should be made.