

BRITTON, J.

SEPTEMBER 24TH, 1915.

RE WEMP.

*Will—Construction—“Proceeds of the said Property”—Rents or Profits from Working Farm—Maintenance of Infant De-
visee—Sale of Farm—Executors—Guardian.*

Application by the executors of Arthur Duncan Wemp, who died on the 27th March, 1915, for an order determining certain questions as to the construction of the will of the deceased.

The material parts of the will were as follows: “I give devise and bequeath all my real and personal estate . . . in the manner following that is to say: The following property say firstly the north-east half of lot number 31 and the north-east half of number 32 in the 13th concession of the township of Dover East . . . the proceeds of the said property to my daughter Ila May Wemp for her care and education till she attains the age of 21 years. Should she predecease me the property to be equally divided between” (naming certain persons); “and I direct that the north-east half of lot number 33 in the 13th concession shall be disposed of and all mortgages on the aforesaid property paid off and discharged. All the residue of my estate not hereinbefore disposed of I give devise and bequeath unto my daughter in care of my executors.”

The daughter survived the testator, and was, at the time of the application, about 16 years old. Her grandmother, Catherine Peterkin, was her guardian, appointed by a Surrogate Court.

The application was heard at Chatham.

O. L. Lewis, K.C., for the executors.

J. M. Pike, K.C., for Catherine Peterkin.

S. B. Arnold, for the Official Guardian.

BRITTON, J., said that the main point was whether the executors were bound to sell the land called the homestead farm during the minority of the daughter Ila May Wemp, or whether “proceeds of the said property” meant proceeds resulting from rental of and working of the farm. The learned Judge was of opinion that the words did not mean, in this instance, proceeds resulting from the sale, but meant that the farm should be rented or perhaps worked, and whatever results accrued from such renting or working of the farm, that is to say, the net proceeds,