

HON. MR. JUSTICE LENNOX:—No good purpose will be served by giving leave to appeal. It is true that this Court has no power to annul a marriage, but equally true that it is in the power and it is the duty of the Court to enquire into and determine as to the intrinsic validity of alleged marriages when it incidentally or collaterally becomes necessary to do so in determining rights of inheritance, rights of property and the like. *A. B.* (1868), L. R. 1 P. & D. 559; *Prowd v. Spence*, 10 D. L. R. 215.

The applicants are not injured by having timely notice of the issues to be raised. They have not brought themselves within Rule 507. There are no conflicting decisions and it certainly does not appear to me that there is "good reason to doubt the correctness of the judgment from which the applicants seek leave to appeal."

Application dismissed—no costs.

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HON. MR. JUSTICE MIDDLETON.      JANUARY 14TH, 1914.

RE ACHTERBERG.

5 O. W. N. 755.

*Will—Construction—Life Interest—Gift of "Residue" on Death of Life Tenant—Power of Encroachment by Life Tenant on Corpus for Maintenance—Amount of Annual Payment Fixed by Consent.*

MIDDLETON, J., *held*, that where a testator gives his property, mainly personal to his wife for life, the "residue" to others after her death, that the widow has power to encroach upon the corpus for her maintenance.

*Re Storey*, 14 O. W. R. 904 and *Re Johnson*, 27 O. L. R. 472, followed.

Motion for the construction of a will.

E. P. Clement, K.C., for executor and widow.

F. W. Harcourt, K.C., for infants, and also for representative of adults.

HON. MR. JUSTICE MIDDLETON:—The testator's estate is almost all personal. He gives the widow "the benefit and use of the rest of" his estate during her lifetime. This expression "rest" means the residue after payment of debts and legacies.