

future husband so far as residence is concerned, as I do not wish either of my daughters to have as a matter of right the privilege to occupy my said residence with any husband present or future so long as a daughter of mine or son of mine is living therein.

"4. Upon the further trust after the death of the said John T. Ryan that my daughters and the survivor may occupy and reside in said residence during their and each of their natural lives, and while living in the manner they now live as above explained. . .

"5. And upon the further trust, after the death of my said son, for my grandson Alfonso Francis Smith his heirs and assigns absolutely but subject to the said right of occupation and residence with him of my two daughters under paragraph number 4.

"6. The words "my residence" in this my will include all my land and buildings and outbuildings connected with said residence or appurtenant thereto.

"7. If John T. Ryan alienate or for any reason cease personally to enjoy his privilege or rights in respect of said residence the right of my daughters to occupy shall notwithstanding still exist."

Paragraph 14 of the will gave the residuary estate, real and personal, to the two daughters, son, and grandson of the testatrix, share and share alike.

The applicant Mary Alice Smith was the daughter of the testatrix and the mother of the applicant Alfonso Francis Smith, who became of age in April, 1910. John Thomas Ryan was married on the 19th November, 1902, and had issue. His wife was alive at the time of the application. The other daughter of the testatrix was dead.

Glyn Osler, for the applicants.

J. M. Ferguson, for John Thomas Ryan.

MIDDLETON, J.:—A series of cases, most of which are collected by Mr. Justice Swinfen Eady in *Re Collyer*, 24 Times L. R. 117, shew that the ordinary meaning of the word "unmarried" is "without ever having been married." The context may indicate that the word is used in such a sense as to include a widow or widower, and slight indications in some cases have been regarded as enough to shew that the testator did not use the term in a primary sense.

In this will the expression "while he is unmarried" would readily lend itself to the meaning suggested by counsel for John T. Ryan, namely, that, in the event of his wife dying, he should be at liberty to resume occupation of the homestead along with his sisters, until his death, when the right of the grandson would arise under clause 5.