

# The Ontario Weekly Notes

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LATCHFORD, J.

DECEMBER 13TH, 1912.

RE MITCHELL.

*Will—Construction—Gift to Daughter—General Words—Connected with Subsequent Directions—Whole Clause to be Considered—Assignment of Fund—Duty of Executors.*

Motion by the executors under the will of Louisa C. Mitchell to determine questions arising between them and C. W. Mitchell, the husband of the testatrix, claiming as assignee of his daughter, Mrs. Hawkens, to be entitled to five thousand dollars bequeathed to Mrs. Hawkens under the will.

A. E. Lussier, for the executors.

W. C. McCarthy, for C. W. Mitchell.

A. C. T. Lewis, for the Official Guardian.

LATCHFORD, J. :—The application I considered too wide to be disposed of summarily, and it was accordingly restricted to the construction of the will of the deceased, so far as the will affects the rights of Mrs. Hawkens and her children.

Mrs. Mitchell, who died on the 17th January, 1912, left an estate of \$112,000. After leaving to her children certain specific bequests and legacies—only one of which it is necessary to consider—she bequeathed the residue of her property to her husband. He after her death procured an assignment from the legatees of all their interest under the will, and claims that under this assignment he is entitled to \$5,000 bequeathed to Mrs. Hawkens in the terms following:—

“I give and bequeath to my daughter Louisa Caroline Mitchell Hawkens, wife of George J. Hawkens, of Ottawa, insurance agent, the sum of five thousand dollars for her own separate use, but free from the control of her husband, and without right to her to anticipate the same in his favour, such sum to be invested by my executor and trustee and the interest thereon