

His widow, Jessie Ouderkirk, was forty-two years of age at the date of the application; she was the second wife of the testator.

The youngest child, Mildred, was the only child of the widow, and was an invalid and had been so from her birth.

The testator, by the will aforesaid, first directed payment of his debts and funeral and testamentary expenses, and then proceeded:—

“I give devise and bequeath all my real and personal estate of which I may die possessed in the manner following that is to say:—

“To my wife Jessie Ouderkirk my house and lot in the village of Berwick so long as she remains my widow also the sum of \$200 per annum payable every six months so long as she remains my widow. Said sum of \$200 shall be a lien on the value of my estate.”

He then gave the sum of \$1,000 to each of three named sons absolutely, and proceeded:—

“To my daughter Mildred Ouderkirk if living at my death the sum of \$3,000 and in the event of my wife Jessie Ouderkirk getting married again my daughter Mildred shall have my house and lot in Berwick.

“And I give my executors hereinafter appointed the right to dispose of any real estate or other property of which I may die possessed of for the purpose of paying the bequests hereby made and of investing the funds in a chartered bank or in first class securities. Interest on said trust fund to be used for paying the annual payments to my wife Jessie Ouderkirk as long as she remains my widow.”

He then gave two small legacies, and continued:—

“The devise and bequest of my daughter Mildred Ouderkirk is expressly subject to the unfettered discretion of my executors. If my executors deem it advisable to preserve the portion of my estate hereby willed to my said daughter Mildred Ouderkirk they should control manage and invest this portion of my estate in them for the purpose of supporting and sustaining my said daughter Mildred Ouderkirk.

“In the event of my daughter Mildred dying the property hereby devised to her shall be divided as follows:—”

Then followed a division among his sons and daughters by his first marriage; a residuary devise and bequest to three of his sons; and the appointment of executors.

The questions presented were as follows:—