

panies, yet he gets nothing for any of these services, even working for the companies, as he says himself, "for love."

Now, the importance of this is, that Mr. Holme in his second affidavit states that Mr. Robb had told him that the defendant had got \$800 due him for services transferred to his wife, instead of himself. The affidavits of defendant and wife may be strictly correct, but they are identical in language, and do not refer in any way to this point. The only answer they have made is by filing an affidavit of Mr. Robb. . . . He . . . admits that defendant's wife "subscribed for \$800 stock of the Daisy Petroleum Company, which was issued to her as the consideration for certain services rendered the company by the defendant, acting, I believe, for her." How this is to be reconciled with defendant's statements, I do not attempt to consider. One thing seems clear. If he rendered the services, as Mr. Robb states, and if he was not being paid anything by his wife, the transfer of the \$800 stock to the wife must have been purely voluntary. Mr. Robb carefully refrains from saying that Mrs. McGillivray paid anything for the stock.

Under these circumstances, and looking at the undisputed facts, there can be no question that plaintiffs are entitled to the order.

[Gowans v. Barnet, 12 P. R. at p. 335, referred to.]

STREET, J.

JUNE 15TH, 1903

CHAMBERS.

RE BRAY.

*Will—Construction—Devise—"Heirs"—Estate in Fee Simple—"Or"—  
—"And"—Condition in Terrorem.*

Motion by Frances Bray, widow of Joseph Bray, for an order declaring the construction of his will, so far as his real estate was concerned, and whether an annuity given by the will was a charge on the real estate if the personalty should be insufficient.

Joseph Bray died on 17th January, 1902, leaving a will dated on the same day, which was admitted to probate. He bequeathed to his mother an annuity of \$250, and as to the remainder of his estate his will was as follows: "To my wife, or to her heirs, as long as she remains my widow, all the remainder of my real and personal estate; and on her death or