



Russell E. Lighter

Jacob M. Birely

Wm. H. Pearre

Judges of
the
Orphans' Court

TRUE COPY TEST:

Roy L. Leatherman
Register of Wills for
Frederick County, Md.

Filed April 13, 1939.

Exhibit "C"

WILLIAM H. SUMMERS, Executor	"	No. 7696 Equity In the Circuit
vs.	"	Court for Frederick County,
LAURA C. DETER et al	"	Sitting as a Court of Equity.

The object of the Bill filed in the above cause is to obtain a construction by this Court of what in the Bill is called the third paragraph of the last Will and testament of Isaac Summers late of Frederick County, deceased.

The testator provides for his wife during her lifetime, and at her death directs his executor to convert all his real and remaining personal property into cash, and disposes of it as follows; "I give devise and bequeath unto each of my children herein named, share and share alike. To my son William H. Summers one sixth, to my daughter Laura C. Deter intermarried with John C. Deter one sixth, to my daughter Susan E. Palmer untermarried with Upton Palmer one sixth, to my daughter Mary M. Flook intermarried with Luther C. Flook one sixth, to my daughter Alto M. Wiles intermarried with Charles C. Wiler one sixth, to my daughter Effie Ausherman intermarried with David E. Ausherman one sixth, each child's share to be invested in their name for their benefit and their children at their demise. If the purchase of a house is desired, the title papers to be made in the name of said child for her benefit, and at her death to her children; should any of my herein named children die leaving no children, then said child's share to revert back share and share alike to my remaining children, or their children, as to my daughter Alta M. Wiles intermarried with Charles C. Wiles, heretofore and herein named I authorize my hereafter named executor to invest her share of my estate in trust for her benefit, she to be paid the income during her life, or should she prefer it invested in a house my executor shall have power to do so in trust, she to use it during her life time and after her death to be sold and equally divided among her children, "which is the paragraph in question.

The Will is inartificially drawn, but it is sufficiently clear to give it a construction that does not violate any well known principle. It is the duty of the Court always to try to give effect to a last will and testament in its length and breadth, and no little latitude is allowed at times to do that. Sentences are transposed, punctuation is disregarded, and even words are changed. In the case now under consideration it seems to me that the testator intended to give his children only a life interest in the proceeds of sale in the hands of his executor. Whilst he starts out apparently to give them an absolute interest, yet in the same sentence he directs that each share shall be invested in their name for their benefit and their children's benefit at their death. Here is clearly a limitation over for the benefit of the testator's grand children. I once thought that as the estate was given absolutely in the first place, and it was to be invested in their names, that is by the legatee, the subsequent limitation over would not reduce the absolute estate to a life interest, but I have been unable to find any authority to support that proposition, and it is untenable. In making the distribution the fund should be distributed to each of the children, except Mrs. Wiles' share, which is to be held in trust and invested by the