

CORRESPONDENCE

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MISDESCRIPTIONS IN WILLS.

The Editor, CANADIAN BAR REVIEW.

SIR,—One of the delights of residing in the New West is that a certain deal of the rigours of older-world logic may be evaded. Mr. F. P. Betts is an eminent counsel and is not likely to mislead us as to the evil state of Ontario law. But if he will look at the decision of Mr. Justice Taylor of Saskatchewan in the case of *Zurowski*, ((1927) 3 W.W.R. 745), he may be comforted as to some other provinces. In that case his lordship had just such an instance of misdescription as Mr. Betts gives. Zurowski had left a will distributing his property sensibly among his children. Here was the bequest in favour of his eldest son:

“I give devise and bequeath of my son Jacob Zurowski the South East Quarter of Section One (1), Township Nineteen (19), in Range Eight (8) East of the Second Meridian in Saskatchewan subject to a mortgage for \$800.00 in favour of the Canada Life Assurance Company.”

Now, the Testator was not then, and never was, the owner of that specified land, S.E.-1-19-8, East 2nd. He was the owner of S.E. 1-19-18 West of the Second Meridian, and there was certainly a mortgage thereon to the Canada Life, though of \$1,000.00 instead of \$800.00.

Mr. Justice Taylor, not without some difficulty, read into the will the correct description, supporting himself on the “more compassionate attitude to clerical errors” which the later English cases adopt as compared with “the earlier Ontario cases.”

In the above Saskatchewan case, it must be observed that the Testator did not explicitly declare that he was giving to his son Jacob his land, the South-East Quarter of Section One. That phrasing would have met Mr. Betts' argument: but it was not present in Saskatchewan. It was present in the English case of *Mayell: Foley v. Ward* ([1913] 2 Ch. 488, 83 L.J. Ch. 40). There the Testator directed transfer of “my two freehold cottages or tenements with the appurtenances belonging thereto situate at Trowbridge known as numbers 19 and 20 Castle Street.” Now there were in Trowbridge two cottages known as numbers 19 and 20 Castle Street, but they did not belong to the Testator. On the other hand he was the owner of two cottages known as 19 and 20 Thomas Street, and the Chancery Judge interpreted the description of Castle Street into Thomas Street.

It is said that thirty-nine such cases from Ontario alone should ornament the reports (*vide* footnote to Mr. Betts' article, p. 585). One is in a dilemma. Is this large total due to the carelessness of Ontario practitioners in writing the wills; or to lack of reading the law before launching remedial suits; or to the avarice of Ontario farmers in grasping at technical slips to do out their unlucky brothers and sisters? It is too painful a field for enquiry.

G. C. THOMSON.

Swift Current.

LAW'S TWENTY-EIGHT CURLS.—A horsehair wig of 28 crisp curls across the back, three sets of linen bands to be worn at the throat, a stuff gown with 140 gathers in the shoulder yoke, and a blue damask brief bag are the outfit required by men and women who are called to the bar.

When women were first admitted, wigmakers had great difficulty in fitting them, for in those days, nearly ten years ago, women wore "buns." It is easier to-day with the short-hair mode. Women's wigs are now usually the same as men's and take 16 days to make by hand.

The regulation length of a barrister's gown is 10 inches from the ground, but women have their own ideas about this and have made them to suit themselves. Under their gowns they usually wear dark tailored costumes, and starched wing collars with the white bands.

A barrister's complete outfit costs £13 16s., but the gown at least will serve for years.