

2536.

## APPROVAL, BONDS OF HENRY COUNTY, OHIO—\$39,796.30.

COLUMBUS, OHIO, November 15, 1930.

*Industrial Commission of Ohio, Columbus, Ohio.*

2537.

CONSTRUCTION OF WILL—TESTATOR DEVISES AND BEQUEATHS RESIDUE OF BOTH REAL AND PERSONAL PROPERTY TO HIS WIFE—WHAT ESTATE WIFE TAKES WHEN NO EXPRESS WORDS OF LIMITATION ARE USED TO INDICATE THE QUANTUM OF HER INTEREST.

**SYLLABUS:**

*Where the residuary clause of a will devises and bequeaths to the testator's wife all the residue of his estate both real and personal without using any express words of limitation to indicate the quantum of her interest, and a subsequent clause then states, "It is my desire and wish that after the death of my beloved wife, (naming her), and providing there remains sufficient property, to pay the following amounts hereafter specified; and if not sufficient that they be paid proportionately", following which certain parties are named and definite sums of money written after their names, the wife takes a fee simple estate in the realty and an absolute interest in the personalty, and the attempted limitations over are void.*

COLUMBUS, OHIO, November 15, 1930.

*Tax Commission of Ohio, Wyandotte Building, Columbus, Ohio.*

GENTLEMEN:—I am in receipt of your request for the construction of a certain will in order to determine, for the purpose of assessing the inheritance taxes, whether the widow named therein takes a fee simple estate, or merely a limited estate with remainder over. Said will, after providing, in the first item, for the payment of testator's debts, and, in the second and third items, for the payment of certain pecuniary legacies, further provides in so far as is pertinent:

"4th. I hereby give, devise and bequeath to my beloved wife, A. R. M., all the residue of my estate both real and personal.

5th. It is my desire and wish that after the death of my beloved wife, A. R. M., and providing there remains sufficient property, to pay the following amounts hereafter specified; and if not sufficient that they be paid proportionately.

R. M. M., the sum of fifty thousand (\$50,000.00) dollars, L. M. S. the sum of twenty-five thousand (\$25,000.00) dollars, R. M. M., Jr., the sum of twenty-five thousand (\$25,000.00) dollars, W. C. M., the sum of twenty-five thousand (\$25,000.00) dollars, C. M., the sum of twenty-five thousand (\$25,000.00) dollars, G. M., the sum of twenty-five thousand (\$25,000.00) dollars, ----- Church, the sum of fifty thousand (\$50,000.00) dollars,