

8469

No. _____

Supreme Court of Illinois

R. A. Holladay

vs.

Robert Dixon

71641  7

Supreme Court of the State of Illinois
First Grand Division.

To the Hon J R Catron, Chief Justice, & Sidney Prues
and, P N Walker associate Justices of said Court
Your petitioners Richard Ann Halleday et al, the
appellants in a certain suit, wherein Robert
Deshon was appellee, tried at the November term
of this Court A D 1861. Respectfully, prays for a
rehearing of said Cause.

For the causes and reasons following.

1st The decision of the Court gives to the s^d Elizabeth Halleday
an estate in fee, when it was the well known intention
of the testator, to leave a life estate only.

2. The whole will if brought before the Court
by its context, will it is believed aid the Court
in giving the proper construction, to the
Clause in controversy, and warrant the construction
that a life estate only was intended (2 Robers Vells 27.)
Jarman on wills 107 317.

3. The words "I will & bequeath to my eldest daughter
Margaret Jane Elizabeth Halleday, Eighty acres
of land where my house & well stand, never to let
her and hers forever, never to mortgage nor sell
for ever" - may be, without expunging the word
never, permitted to stand, & by transposing the word for
- ever, So as to read "never forever to her & hers."
Carry out the true intent of testator & for ever 317.

4th Because a warjument would give greater
satisfaction & confidence to the decision what case
that decision may be.

W. H. Weston atty 102

P. C.

A. H. S. O. M. S. C.

Edwin Becken

Edwin Becken

47

Rachael Anne Haldy

et al.

or

Robert Sitowoff

Tulsa Nov. 13, 1867.

Mr. Johnston City

Parley Haldy \$5.00

1867

Holliday or DeKneow

State of Illinois } Supreme Court, first Grand Session.
Jefferson County }

Samuel Hall day, being first duly sworn
says that he wrote the will in controversy, that his
brother the testator was at the time at the point
of death, that he is unskilled in the use of
language, and ^{that it} was the first will he ever wrote
That Mary Ann Goss ^{only daughter} was the ^{only} daughter of testator by a former
wife, that the will was written and read
to the testator, without the words "never to her
^{never to be divorced nor laid forever} and hers forever", and that upon the same
being thus read, he desired that the same
should be changed so that a life estate only
would be devised, and that he inserted
the words never to her and ~~hers~~ hers forever
for that purpose, as well as the never to be divorced
~~and~~ forever, at his request to the ^{2nd} 4th Clause of
the will to limit the same to a life estate only.
This affidavit has as subject in the particular, particular.
Seaswell & Suberch

this 13th day of November } S. DeKneow
A.D. 1862.

S. DeKneow

No 47

R. A. Hildrey
esq.

by
Robert Dixon

Pat. for rehearing

Devised in 1862

8469

Cost bill on 531-