The testator was a widower and childless, and his sister was his only near relative. She lived at Mishawaka, where the testator died.

The estate consisted of: (1) debentures worth about $4,500; cash in banks about $10,000; furniture, pictures, and jewels, worth about $700; a life policy in the Odd Fellows Association for $1,000; a parcel of land in Toronto, valued at $4,000: total, about $19,000; residue, about $17,500.

The motion was heard in the Weekly Court at Toronto.

R. G. Smythe, for the applicants.

D. Inglis Grant, for the sister.

O. L. Lewis, K.C., for the Odd Fellows Home.

THE CHANCELLOR, in a written opinion, said that he had much difficulty with the first part of the clause above-quoted. He referred to Bull v. Kingston (1816), 1 Mer. 314; Jasman on Wills, ed. of 1910, vol. 2, p. 1208; Constable v. Bull (1849), 3 De G. & S. 411; Bibbens v. Potter (1879), 10 Ch. D. 733, 735; Re Sheldon and Kemble (1885), 53 L.T.R. 527; In the Estate of Lupton, [1905] P. 321; Philson v. Stevenson (1903), 37 Ir. L.T.R. 104, 225; Roman Catholic Episcopal Corporation of Toronto v. O'Connor (1907), 14 O.L.R. 666; and said that the weight of authority and the manifest intention of the testator to benefit the Odd Fellows, as well as his sister, led to the conclusion that the apparently absolute gift should be cut down to a life estate.

The second part of the clause quoted, giving the estate over in the event of the sister's marriage, was void as in general restraint of marriage: Lloyd v. Lloyd (1852), 2 Sim. N.S. 255, 263. This rule applies to mixed funds: Bellairs v. Bellairs (1874), L.R. 1899, 510, 516; and to real and personal estate given together: Dudley v. Gresham (1878), 2 L.R. Ir. 442; In re Pettifer, [1900] W.N. 182. This condition of forfeiture being taken out of the will, it leaves the sister with an estate for life; see Re Coward (1887), 57 L.T.R. 285, 287, 291; Allen v. Jackson (1875), 1 Ch. D. 399.

There was no difficulty as to the import of the direction that on the death of the sister the balance should "revert" to the Odd Fellows Home. "Revert" is a flexible term, and sufficiently expresses the intention of the testator that the estate shall go to the home: Jardine v. Wilson (1872), 32 U.C.R. 498, 502; O'Mahoney v. Burdett (1874), L.R. 7 H.L. 388, 393; Cowan v. Allen (1896), 26 S.C.R. 292, 312.

The trustees desired a direction as to how they should deal with the estate, in view of the life-tenant being non-resident. It