The defendant McLean, without delay, gave the statutory notice requiring the plaintiffs to establish their claim, so I think no interest should be allowed.

The amount of $4,500, less solicitor's and client's costs, if any, to be paid into Court for the plaintiffs (infants) to be invested as Court moneys and paid out to them as they respectively attain the age of 21 years.

Twenty days' stay.

HON. MR. JUSTICE LATCHFORD. DECEMBER 13TH, 1913.

RE BROWNE.

5 O. W. N. 466.

Will—Construction—Inconsistency—Bequest of all Residue to amount of $800—Gift Limited to that Sum—Intestacy as to Remainder of Residue.

LATCHFORD, J., *held*, that under a clause in a will providing "all the residue and remainder of my estate not hereinbefore disposed of I give, devise and bequeath unto my nephew to the amount of $800" the beneficiary only took the sum of $800, there being an intestacy as to the balance of the residue.

Re Nelson, 14 Gr. 199, discussed.

Application by the executors for the construction of a provision in the will of the testatrix, an unmarried woman, the residue of whose estate amounted to nearly $4,000.

The clause regarding which the advice of the Court was sought is as follows: "All the rest, residue and remainder of my estate not hereinbefore disposed of I give, devise and bequeath unto my nephew Travers Gough Browne of Brockville, to the amount of $800."

If the bequest was limited to the $800, there would be an intestacy as to upwards of $3,000.

J. A. Hutcheson, K.C., for executors.

G. H. Kilmer, K.C., for Caroline Bolton, one of next of kin.

HON. MR. JUSTICE LATCHFORD:—It is a well established rule that the Courts do not favour an intestacy. But it is also the law that effect must be given to the intention of a testator as expressed.

No case parallel to this was cited upon the argument, nor have I been able to find any. *In re Nelson* (1868), 14 Grant 199, has some little relevancy. There the testator