

that there would have been some cumulation of illegal or corrupt acts, had he not acted as he did.

The fair thing, it occurs to me, is to give a reasonably approximate apportionment of the outlay for witness fees now under consideration, and fix it, without taxation, at the sum of \$230, to be paid by respondent to petitioners.

IDINGTON, J.

NOVEMBER 4TH, 1904.

CHAMBERS.

RE HARDING.

Will—Construction—Residuary Bequest — Church—Amount more than Sufficient to Answer Specified Purpose—Application of Balance Cy-près—Intestacy—Gift for Maintenance of Burial Plot—Perpetuity—Charity.

Motion by the executors and trustees under the will of Prudence Sarah Harding for an order declaring the construction of the will.

G. F. Ruttan, Napanee, for the executors and trustees.

W. E. Middleton, for Fanny Louisa Downey, only next of kin of deceased.

A. H. F. Lefroy, for the Synod of the Diocese of Ontario.

IDINGTON, J.—The testatrix died on or about 1st June, 1904. Probate of her will, which is dated 31st January, 1896, was granted to her executors . . . on 27th June, 1904. The estate consisted of personal property of about \$10,218. Debts and funeral and testamentary expenses to about the amount of \$1,076 have been paid by the executors; and when the other liabilities (if any) and the specific legacies are paid there will, of the residue, be more than necessary to satisfy the purposes particularly named in the following paragraph, which is the last bequeathing clause, of the will, and reads thus:

“All the rest and residue of my estate . . . I will, devise, and bequeath to the rector and churchwardens of the church of St. Mary Magdalene, Napanee, in trust to use \$3,000 thereof in properly and suitably building and completing the tower of the said church, and placing therein a good, suitable, and proper bell for the use of the said church, and in trust to invest the surplus, if any, in the savings bank department of the Merchants Bank of Canada, Napanee, in the name of the rector and churchwardens of the