

here according to the law of the testator's domicile, which, in the absence of evidence to the contrary, would be presumed to be the same as the law of this Province:—

Held, also, there being no prohibitory law of the legatees' domicile, the bequest to the lodge was a valid bequest to the members thereof, and that the trustees of the lodge could be added as parties defendants, on behalf of all the members.

Walker v. Murray, 5 O. R. 638, followed. *Graham et al. v. The Canandaigua Lodge No. 236 of the Independent Order of Oddfellows of the State of New York*, 255.

4. *Construction—Bequest to Trustees of Church—Mixed Fund—Application of—Directions.*—A testator by his will bequeathed a sum of money to the trustees of a church "to be * * used in the payment of any indebtedness on said church, and for such other purposes as they may deem wise." At the time the will took effect there was no debt on the church:—

Held, that the reference in the will meant outlay in connection with the church such as repair and maintenance or any obligation incurred for which the land was not liable, and that the bequest was valid.

Bunting v. Marriott, 19 Beav. 163, followed.

The will directed the bequest to be paid out of a mixed fund derived from the sale of land and personality:—

Held, as far as the real estate was concerned, that the gift failed.

Directions as to the application of the fund. *Ostrom et al. v. Alford et al.*, 305.

5. *Devise—Life Estate—Remainder—Vested Estate—Period of Vest-*

ing—Trust—Conversion into Personality—"Pay or Apply."—Devise of land to widow for life for the support of herself and testator's children, with power to sell, etc., as she might think proper for the general benefit and purposes of his estate; and upon her death, devise of such part of land as might remain undisposed of to trustees to stand seized and possessed of for the benefit of testator's children, in equal shares, and to pay to each his share at majority; with a provision that upon the death of any child before majority without issue, the trustees were to pay or apply his share to and among the survivors:—

Held, that the estates of the children became equitably vested upon the death of the testator, subject to the mere powers for sale contained in the will; and so vested as realty, for there was no trust which required, and the use of the words "pay" and "pay or apply" did not work, a conversion of realty into personality. *McDonell v. McDonell et al.*, 468.

6. *Direction to Sell Lands—Names or Descriptions of Devisees—Trust—Charitable Use—Mortmain—Augmentation of Particular Fund or Residuary Estate—Interest—Power of Executor—Dower—Election—Costs.*—A testator by his will provided as follows:—

"I do order and direct that my executor sell the real estate owned by me, such sale to be made inside of three years from the date of my decease, and out of the proceeds of the said sale to pay to the Archbishop of the Diocese of Toronto \$500; to the Bishop of the Diocese of Hamilton \$500; to be applied for the education of young men for the priesthood; and the balance invested by my executor in the proportion of