my son J. D., his heirs and assigns." The testator died in 1875. In 1876, while G. H. was still a minor, being only eleven years old, J. D. and W. H. entered into an agreement under seal, whereby it was agreed that J. D. should support the widow of the testator, who was his mother and the mother-in-law of W. H., during her life, and should convert into money the estate of the testator, to which he was or should be entitled under the will, and pay a moiety of the proceeds to W. H., in trust for the support of G. H., till he should attain twenty-one; the residue to be then paid by W. H. to G. H. Pursuant to this agreement G. H. forthwith resided with W. H. till he was seventeen years of age, when this action was brought by the executors for a declaration of the rights of G. H., J. D. and W. H. under the will.

Held, that G. H. took a vested interest in the property under the will; that the condition was a condition subsequent, and was void as being "against law;" and G. H. was entitled to all the estate given to him by the will, notwithstanding the agreement of 1876, which could not be regarded as a family compromise, or for the benefit of the infant. *Clarke et al.* v. *Darraugh et al.*, 140.

4. *Charitable bequests — Particular residuary gift followed by general residuary gift—Cumulation and substitution — Testamentary expenses — Costs.*] — One S. by his will directed his estate, real and personal, to be sold, except certain stocks, lands, and securities thereinafter specifically devised, and that his debts and "testamentary expenses" should be paid out of the first moneys that should come into the hands of his executors; and after making certain pecuniary bequests, (which he charged primarily on the fund to be produced by the sale of his real estate as aforesaid, and secondarily on the proceeds of his personal estate) he directed that "as to the residue of my personal estate which may be exclusively devoted by me to charitable purposes, I bequeath the same to the churchwardens of the A. Church, to be invested by them for the purpose of forming an endowment for the support of the said church."

Afterwards, by a codicil, S. bequeathed to three persons named by him $30,000 as an endowment for the A. Church, to be invested by them in their own names as trustees for the said church, and to be disposed of for the benefit thereof as therein mentioned, but in certain contingencies to merge in his residuary estate, and be disposed of under the last clause of his will, by which he devised all the rest, residue, and remainder of his estate, of which he should die possessed, to A. and L., to be equally divided between them, share and share alike.

Held, that on a proper construction of the will and codicil $30,000 of the pure personalty was to be held by trustees on the trusts as defined for the benefit of the A. Church: and as to the residue of that fund, it was to be held generally by the churchwardens for the support and maintenance of that church.

A legatee is entitled to take both a pecuniary gift and a residue, whether given in a will or in a combined will and codicil, and the construction of a particular residuary gift is not affected by the presence or absence of a general residuary gift.

Held, also, that although testamentary expenses, which include the costs of a suit for construction and