IDENTIFICATION OF CHARITABLE INSTITUTION —DEFICIENCY OF ASSETS—PAYMENT IN FULL OF SPECIFIC LEGACIES — ABATEMENT OF LEGACIES PAYABLE OUT OF RESIDUE — ENLARGEMENT OF FUND TO PRODUCE ANNUITY—CHARITABLE GIFT—PERPETUAL TRUST.

Re Fitzgibbon, 11 O.W.N. 71.

SPECIFIC GIFTS OF COMPANY-SHARES—ABSORPTION OF COMPANY BY NEW COMPANY AFTER DATE OF WILL BUT BEFORE DEATH OF TESTATOR—SUBSTITUTION OF SHARES IN NEW COMPANY—VALIDITY OF GIFTS.

Re Murray, 11 O.W.N. 23. [See also 8 O.W.N. 463.]

(§ III L-198)—DIVISION OF RESIDUE.

When a testator devises parcels of real property respectively to his children for life, with remainder to their issue, and provides that upon the distribution of the residue of his estate, if, in the opinion of his trustees, the fee simple of the several estate should not then be of equal value, they should apportion to each a sum equal to the difference between the life estates and the value of the most valuable, the sum necessary to equalize such values, or the amount charged, as the will directed, upon the most valuable property for such purpose, will be treated as an increment to the less valuable shares, and be held in the same way as the respective parcels.

Re Drummond, 5 D.L.R. 516, 3 O.W.N. 1459, 22 O. W. R. 554.

DISTRIBUTION OF RESIDUE — INCOME FROM —SUPPORT OF MINOR LEGATEES.

Re Richardson, 5 D.L.R. 449, 3 O.W.N. 1473, 22 O.W.R. 605.

Under a will which provides that three-quarters of the amount a legatee received by specific bequests should be deducted from the amount to which he was entitled as a residuary legatee, and that the difference should be divided among a designated class of legatees, where the amount of such specific bequests exceeded the former's residuary share of the estate the latter share will be divided among such designated class of legatees.

Re Irwin, 4 D.L.R. 893, 3 O.W.N. 936, 21 O.W.R. 562.

An absolute gift to the several persons named and not one to the executor in trust, is created by a devise of the residue of the testator's estate to such executor, subject to certain payments to persons named, which was followed by a clause making the executor residuary legatee "after all of the above bequests" have been faithfully carried out.

Re De Blois Trusts, 6 D.L.R. 119, 11 E. L.R. 141. [See also 22 D.L.R. 731.]

Where the scheme of a will apart from specific devises and bequests is to give pecuniary legacies of fixed sums to different legatees and then to divide the residue amongst some of them in proportion to the pecuniary bequests which each is to receive, a substitution by codicil of a different sum to one of them, will take effect so as to cause a distribution of the residue in different proportions conforming to the amended legacies unless a contrary intention appears from the will.

Re Hunter, 1 D.L.R. 456, 25 O.L.R. 400, 21 O.W.R. 5.

DIVISION OF RESIDUE—REVOCATION OF ONE BEQUEST TO ONE LEGATEE.

Re Corkett, 4 D.L.R. 561, 21 O.W.R. 468, varying 3 O.W.N. 761. [See also 9 D.L.R. 135.]

M. DIVISION OF RESIDUE; INCONSISTENT CLAUSES.

(§ III M—199)—INCONSISTENT CLAUSES.

Where a testamentary gift is modified by a subsequent clause of a will, or is in conflict therewith, the latter clause controls.

Re Ley, 5 D.L.R. 1, 17 B.C.R. 385, 21 W. L.R. 757, 2 W.W.R. 790.

IV. Suit to construe or reform.

(§ IV—200)—INTENTION OF TESTATOR — DETERMINATION OF.

The only safe method of determining what was the real intention of a testator is to give a fair and literal meaning to the actual language of the will.

Auger v. Beaudry, 48 D.L.R. 356, [1919] 3 W.W.R. 559. [See 43 D.L.R. 65.]

CONSTRUCTION OF —"FARM PROCEEDS"— GIFT OF INCOME.

A testator devised "my farm proceeds the S. W. ¼-22-34-9-3d" to G. At the date of the will and also at the date of death G. was a tenant of the land from the testator holding under a share of crop lease. Held, That G. took the fee simple estate in the land.

Re Churchill, 12 S.L.R. 396, [1919] 3 W.W.R. 557.

WILL OF HUSBAND—APPLICATION BY WIDOW FOR RELIEF—TO WHOM MADE.

The application by a widow for relief against the terms of the will of her late husband should be made to the court presided over by a single judge, and not to a Judge in Chambers nor to the court en banc. In such a case, the proceedings should not be amended by making the notice of motion read "in the court" instead of a "Judge in Chambers."

Re Ostrander Estate, 7 W.W.R. 384.

ACTION TO CONSTRUE — ADMINISTRATION — FUND LIABLE.

Testator made several bequests to his wife and daughters to be paid out of his farm known as the "Boisner" farm. Testator had conveyed to his son John a farm called the "Hall" farm, and had conveyed to his son James the homestead. There was a mortgage of $850 upon the "Boisner" farm and upon 47 acres of the homestead. There was also a subsequent judgment of $450 binding all testator's lands. After the conveyance to John he undertook to pay the judgment; James, after getting his conveyance, undertook to pay the mortgage:—Held, that the bequests should be paid out