

## NEW BRUNSWICK.

SUPREME COURT, CHANCERY DIVISION. SEPT. 20TH, 1910.

JONES v. SAINT STEPHEN'S CHURCH, ET AL.

*Will—Construction—Charitable Bequest—Uncertainty—Intention.*

Barnhill, Ewing &amp; Sanford, for the plaintiff.

W. B. Wallace, K.C., and Macrae, Sinclair &amp; Macrae, for defendants.

M. G. Teed, K.C., and Homer D. Forbes, for defendants.

J. Roy Campbell, for defendants.

BARKER, C.J.:—The testatrix Catherine Murdoch died on the 26th October, 1909, having made a will bearing date November 27th, 1905, which was duly proved, and letters testamentary of which were duly granted to Mr. Jones the executor named in it. The legacies with the exception of the one involved in this suit have all been paid, and it appears that after payment of all the legacies testamentary and all other expenses and debts there will be a substantial residuary estate which the testatrix disposed of as follows,—“I give, devise, and bequeath all the rest and residue of my estate, real and personal, unto the trustees of Saint Stephens Presbyterian Church in the city of Saint John, and the Saint John Natural History Society, to be divided between them share and share alike.” These legacies were all to be paid free of succession duty, and in case of the death during the lifetime of the testatrix, of any person named as a legatee, the legacy was not to lapse, but it was to be paid to the next of kin of the person so dying. All of these legacies with the exception of four are given to individual legatees. These four are as follows: “I give and bequeath unto Pioneer Lodge of Odd Fellows, in the said city of St. John, the sum of \$500, to be used and applied for the benefit of widows and orphans of members of that lodge.” A legacy in similar terms of \$500 to the trustees of St. Andrews Society, of St. John, to be used for charitable purposes. A legacy of \$1,000 to the New Brunswick Society for the prevention of Cruelty to Animals. And the legacy over which this controversy has arisen which is