

Held, that the beneficial interest in the mortgage passed to the widow, under the words "other personal effects." "These words occurring in a residuary gift were not to be read as restricted to things ejusdem generis with those described by the preceding words, the testator's intention being to dispose of the whole of his personal estate.

Held, also, following *Re Thomas*, 2 O.L.R. 660, that the testator's debts and funeral expenses and the expenses attending the execution of his will and the administration of his estate should be charged ratably upon his real estate and personal estate according to their respective values: Devolution of Estates Act, R.S.O. 1897 c. 127, s. 7.

D'Arcy Tate, for executors and S. J. Way. *J. Dickson*, for other parties.

MacMahon, J.] *MAGER v. CANADIAN TIN PLATE CO.* [Dec. 15, 1903.
*Prohibition—Money demanded—Final judgment—Entry of a for want of
dispute notice—R.S.O., c. 60, s. 113.*

An action in a Division Court in which the particulars described the plaintiff's claim as for "money received by the defendants for the use of the plaintiff being money obtained from the plaintiff by the defendants by false representations" in an action for a "money demanded" within s. 113 of the Division Courts Act, R.S.O., c. 60, and a motion for prohibition to restrain proceedings upon a judgment entered in default of a dispute notice was refused.

Middleton, for motion. *W. Davidson*, contra.

Cartwright, Master.] *KIRK v. CITY OF TORONTO.* [Dec. 22, 1903.
Jury notice—Injury by steam roller—Non-repair of street—O. J. Act, 104.

Injuries caused by the negligent use of a steam roller belonging to a Municipal Corporation and operated by a contracting company on a street of the latter are not caused through non-repair of the street and a motion to strike out a jury notice under s. 104 of the Judicature Act was refused.

Nasmith, for plaintiff. *Chisholm*, for city. *J. E. Jones*, for the contractors.

Divisional Court.] *GARNER v. TOWNSHIP OF STAMFORD.* [Dec. 28, 1903.

Evidence—Negligence—Statements of persons injured—Res gestæ.

In an action brought by the father and mother of a young girl to recover damages in respect of her death which resulted as was alleged from a fall on a stone in a highway under the control of the defendants. It was proved that the stone in question had been allowed to remain for a long