

MEREDITH, C.J.C.P.

MAY 29TH, 1915.

RE MURRAY.

*Will—Construction—Residuary Bequest—Income or Corpus—
“The same”—“Blood Relatives”—Next of Kin.*

Motion by the executor of Charles Stuart Murray, who died in 1913, for an order determining certain questions arising in the administration of the estate of the deceased as to the interpretation of portions of his will.

Clause 10 of the will was as follows: “All the rest residue and remainder of my estate, other than accident policy herein-after referred to, I hereby give the income arising therefrom to my wife for life and after the death of my wife I give *the same* to such of the following persons as may be living at the time of my wife’s death”—naming them. The question as to this was, whether the words “the same” referred to the residue of the estate or the income therefrom.

By clause 9, the testator bequeathed certain specific chattels to named persons, “and to such of my blood relatives as my wife may by writing appoint all and any other chattels not herein disposed of.” As to this, the question was, who were included in the term “blood relatives”—no appointment having been made by the testator’s wife, who died in February, 1915.

The motion was heard in the Weekly Court at Toronto.

A. E. Knox, for the executor.

M. H. Ludwig, K.C., for seven beneficiaries.

J. M. Godfrey, for four beneficiaries.

H. M. East, for Adelaide Gouinlock.

J. M. Langstaff, for Jeannette Hunt.

J. J. Kehoe, for J. P. Murray.

MEREDITH, C.J.C.P., said, with regard to clause 10, that literally the words “the same” referred to the income; but it was plain that the testator meant the whole of the property; and, if that was not so, the absolute gift of the income, after the wife’s death, would carry with it a right at that time, to the property.

In regard to the 9th clause, the learned Chief Justice said that “blood relatives” meant no more than “relatives;” and “relatives” meant the persons who would, under the Statute of