

Eddy, wife of Michael Norman Parker, one-third; to each of them, their heirs, executors, or assigns, absolutely." The will contained no residuary clause.

Hiram Rial Eddy predeceased the testatrix, leaving a widow, but no children.

Charles M. Eddy assigned all his interest in the estate to his wife, Estella Maud Eddy.

The question was, whether the testatrix died intestate as to the one-third share of the residue of her estate bequeathed to her son Hiram.

The learned Judge was of opinion that the legacy lapsed when the proposed recipient predeceased the testatrix, and that such share must be dealt with as though there had been an intestacy as to it.

The two surviving children of the testatrix, Charles M. Eddy and Charlotte Electa Parker, were entitled to Hiram's one-third share in equal parts, and the widow of Hiram to no share therein. Estella took her husband's share of Hiram's share, under the assignment.

Apparently, the widow of Hiram was notified informally of this motion; but the order should not issue until the result had been communicated to her by registered letter, and an opportunity given her to take action.

Costs of all parties out of the estate.

CLUTE, J.

April 13th, 1917.

***BRENNAN & HOLLINGWORTH v. CITY OF HAMILTON.**

Contract—Construction of Sewers for City Corporation—Misrepresentations of Servant of Corporation as to Depth of Rock—Absence of Fraud—Change of Line—Work Completed under Contract—Contract Price—Extras—Decision of City Engineer—"Final and Binding"—Engineer Found not to be Impartial Arbitrator—Contractors not Bound by Decision—Allowance for Extras—Reference.

The plaintiffs, engineers and contractors, in November, 1915, contracted with the defendant city corporation for the construction of sewers in certain streets of the city; they alleged that the corporation, through its engineers, made certain representations as to the depth of rock to be encountered in the construction of the sewers; and that, relying upon these representations, they were