

mortgage for \$900. The widow survived the testator only a few days, and made no disposition of the mortgage.

H. J. Martin, for executors and stepchildren.

C. Evans-Lewis, for next of kin.

TEETZEL, J.:—I am of the opinion that the proper construction of the clause in question is, that the widow had only a life interest in the mortgage, with power of control during her life. . . .

[Percy v. Percy, 24 Ch. D. 616, and Hancock v. Watson, [1902] A. C. 14, distinguished.]

The widow having failed to make any disposition, the remaining interest would fall into the testator's undisposed of estate, and go according to the Statute of Distributions, R. S. O. 1897 ch. 335. . . .

[Reference to Osterhout v. Osterhout, 3 O. W. R. 249, 7 O. L. R. 402, 4 O. W. R. 376, 8 O. L. R. 685; Scott v. Joselyn, 26 Beav. 174.]

It not being necessary, I do not decide whether the words of this will would authorize the widow to absolutely dispose of the mortgage in question either by deed or will.

A question having been raised . . . as to the right of the widow to share under the Statute of Distributions, notwithstanding her life interest in the whole mortgage, I think she was so entitled, and therefore her next of kin will now take the moiety to which she was entitled: Pickering v. Stamford, 3 Ves. 335; Re Twigg's Estate, [1892] 1 Ch. 579; and Re Harrison, 2 O. L. R. 217.

Costs of all parties out of the estate.

BRITTON, J.

MARCH 5TH, 1906.

CHAMBERS.

STURGEON v. PORT BURWELL FISH CO.

Venue—Change of—Fair Trial—Convenience—Expense—Witnesses.

Appeal by defendants from order of Master in Chambers dismissing application of defendants to change place of trial from Goderich to Simcoe.

F. Arnoldi, K.C., for defendants.

W. Proudfoot, K.C., for plaintiff.