

be equally divided between my five children. The estate consisted of realty.

*Held*, that the words were sufficient to create a condition; that the condition was a valid one; that there was an absolute gift of the whole residue to the widow followed by a gift over as to two-thirds if she married again; and that the executor should retain in his hands two-thirds of the estate, paying the widow the income till her death or marriage, when it would fall to be disposed of, in the latter case under the testator's will, and in the former by her own will or otherwise by the course of law.

*Flintoft*, for executor. *Frank Denton*, K.C., for widow. *Geary*, for children.

Meredith, J.,]

IN RE ADAMS.

[Dec. 28, 1903.

*Distribution of estates—Devolution of Estates Act—Next of kin—Collateral relations—Per capita distribution—Half-blood—Double blood.*

An intestate was possessed of both real and personal property, and left no wife, child, father, brother, uncle, or aunt.

His next of kin were cousins, more of whom were the children of his father's half brother, and one of whom was the niece both of his father and mother.

*Held*, that the estate should be distributed equally among the cousins. Under the Devolution of Estates Act the whole estate is to be distributed as personal property is now distributable. Collateral relatives in the same degree of kinship take equally in their own rights, not by way of representaton; those of the half-blood take equally with those of the whole blood and those of the double blood take no more.

*Forewell*, K.C., *Armour*, K.C., *G.C. Campbell*, and *George Bell* for the various parties.

Meredith, C.J.C.P.]

SLEMIN v. SLEMIN.

[Dec. 29, 1903.

*Receiver Interim alimony—"Creditor"—Police Benefit Fund—Pension.*

The plaintiff, the wife of a retired member of the Toronto Police Force, and who was entitled to certain interim alimony under an order theretofore made, now applied to be appointed receiver of moneys to which the defendant, her husband, would become entitled as pension, under the rules of the Police Benefit Fund, (a Friendly Society incorporated under R.S.O. 1897, c. 211,) on application by him before the Benefit Fund committee, which application however, he had not yet made.

*Held*, that the plaintiff was not entitled to succeed, for whereas arrears of pension constitute a debt which may be attached by garnishee proceed-