AGREEMENT — DURATION — PAYMENT OF CLAIMS — DISCHARGE OF LAND — PAYMENT INTO COURT.

Clark v. Robinet, 5 O.W.N. 143, 25 O.W. R. 76.

LEGACIES CHARGED ON LAND—DEVISE—LIFE ESTATE — REMAINDER TO CHILDREN OR ISSUE—TENANTS IN COMMON PER STIRPES—RULE IN SHELLEY'S CASE.

Re Ames, 5 O.W.N. 95, 25 O.W.R. 90.

LACHES—STATUTE OF LIMITATIONS.

Brown v. Thompson, 5 O.W.N. 19, 351.

PROVISIONS FOR MAINTENANCE OF WIDOW—CHARGE ON LAND DEVISED TO SON.

Honsinger v. Honsinger, 24 O.W.R. 218.

CODICIL—FAMILY SETTLEMENT—CHARGE ON LAND DEVISED.

Re Greenwood, 10 O.W.N. 343.

SPECIFIC BEQUEST OF CHATTEL—DIRECTION BY CODICIL THAT CHATTEL BE BURIED WITH TESTATRIX—INVALIDITY—PECUNIARY LEGACIES — FAILURE OF ASSETS — ADMINISTRATION OF ESTATE—PAYMENT OF DEBTS—LEGACIES CHARGED ON REALTY—PRIMARY RESORT TO RESIDUE OF PERSONALTY—COSTS.

Re Durrell, 9 O.W.N. 11.

TRANSFER BY FATHER TO SON—COVENANT BY SON TO PAY ANNUITY TO DAUGHTER—TRUST.

Dawson v. Dawson, 23 O.L.R. 1, 18 O.W. R. 6.

L. LAPSING; ADEMPTION; DEDUCTION; REVOCATION; RENUNCIATION.

(§ III L—190)—INSUFFICIENCY OF PERSONAL ESTATE TO PAY DEBTS—SALE OF LAND—PECUNIARY LEGATEES—MARSHALLING OF ASSETS.

General pecuniary legatees have no right to marshal as against specific devisees. A devisee is as much an object of the testator's bounty and as much to be favoured as a legatee and, where the testator has manifested no intention to prefer the legatee to the devisee, the usual order of administration, according to the practice of the court, ought to be followed. The order in which assets are liable for payment of debts remains as heretofore: Devolution of Estates Act, s. 15. The testator by his will directed, first, that all his debts and funeral and testamentary expenses should be paid by his executors as soon as convenient after his decease. He then devised and bequeathed all his real and personal estate in the manner which followed, i.e., he devised all his land to his son, and made certain pecuniary bequests. The son died, leaving his widow and infant children entitled to the land specifically devised to him. The personal property of the testator proved insufficient to meet his debts; after exhausting it, the executors sold the real estate, and paid the remaining debts out of the proceeds. There remained a balance in their hands:—Held, that the legacies were not payable out of this fund. (2) That no case had arisen for the marshalling of the assets of the deceased so as to entitle the legatees to payment. (3) That the widow and children of the son were entitled to the fund. [Rickard v. Barrett (1857), 3 K. & J. 289; Re Tanqueray-Williaume and Landau (1882), 20 Ch.D. 465, followed.

Re Steacy, 39 O.L.R. 548.

SPECIFIC BEQUEST—SEPARATION DEED.

Where by a separation deed made subsequently to the husband's will he covenanted that by his last will he would specifically bequeath to his wife and charge upon his land $30,000, and this same sum was bequeathed to her and charged his lands by the then existing will which remained unrevoked at the time of his death, it was held, that the covenant in the separation deed had been performed or satisfied by the will and that the widow was entitled only to the one sum of $30,000 and to that sum only as a creditor under the deed.

Rissmuller v. Balcom, 24 B.C.R. 353, [1917] 3 W.W.R. 535.

PREFERENCE OF LEGACIES.

In case of preference in the matter of particular legacies when the property of the succession is insufficient, art. 885 C.C. (Que.) contrary to the French law, recognizes that the implied wish of the testator governs the provisions of the will, and that it is for the court to determine which legacy the testator intended as a preference. This preference may result from the order in which the legacies are set out in the will. But the fact that the testator has declared a legacy inalienable, while he has not given the same character to the others, implies that he has given it a preference. The following circumstances indicate that a testator has not wished to subject a legacy to the payment of other special legacies: (a) when the testator especially determines the conditions and charges of the first legacy without subjecting it to payment of the others; (b) when the testator leaves other property, especially hypothecary obligations, and it appears by the whole of the will that his intention was that the particular legacies should be paid in the same manner as these latter obligations.

Beaupré v. Gravel, 52 Que. S.C. 427.

WIDOW'S ANNUITY DECLARED FIRST CHARGE ON NET INCOME OF RESIDUARY ESTATE—DEFICIENCY — RESORT TO CORPUS — ABATEMENT OF LEGACIES.

Re Daly, 15 O.W.N. 32, 97.

BEQUEST FOR BENEFIT OF SON AND SON'S WIDOW—DEATH OF SON IN LIFETIME OF TESTATOR — RIGHT OF WIDOW — PROVISION FOR ABATEMENT.

Re Hickey, 7 O.W.N. 142.

DEVISE OF LIFE ESTATE TO HUSBAND—HUSBAND PREDECEASING TESTATRIX—CONVERSION INTO CASH AND MORTGAGE—ADEMPTION.

Re Tracy, 5 O.W.N. 530, 25 O.W.R. 413.