5. *Survivorship — Youngest Surviving Child Attaining Majority — Period of Distribution—Vesting of Shares.*]—A testator by his will gave his residuary estate to his executors upon trust to make provision for the support and maintenance of his family and for their education until his youngest surviving child should attain twenty-one years of age, when it was to be divided by the executors, by their setting apart one-third thereof for his widow, during her widowhood or until she remarried, and the remaining two-thirds to his surviving children in the proportion of four parts to the sons and three parts to the daughters; and after the death or marriage of his widow, the said one-third was to be divided between his surviving children in the above proportions. The widow survived the testator, but died before the youngest surviving child attained the age of twenty-one years:—

Held, that the words of survivorship referred to the period of distribution, namely, when the youngest surviving child attained twenty-one years of age, and, therefore, only the children then living were entitled to share in the residue, and this applied as well to the shares to be taken by the children as to the share to be set apart for the widow. *Re Soules*, 140.

6. *Gift — Mistake in Name of Donee — Validity — Declaration — Originating Notice—Rule 938.*]—A testator bequeathed a sum of money to his "sister Anastasia Cummings." He had only two sisters, Catharine Kelly, to whom he bequeathed a like sum, by her proper name, and Maria Cummins:—

Held, that the gift took effect in favour of Maria Cummins.

Held, also, that a declaration to that effect could properly be made upon an originating notice under Rule 938.

In re Sherlock (1898), 18 P. R. 6, followed. *Re Whitty*, 300.

7. *Restraint on Alienation—Validity—Attempt to Alien—Forfeiture—Heirs-at-law.*]—A testator devised land to his three sons, in equal shares, in fee simple, adding "without power to them, or any of them, to charge or alien the same or any part thereof except by * * will:"—

Held, following *Re Winstanley* (1884), 6 O. R. 315, a valid restraint on alienation.

The three sons were the sole heirs at law of the testator. After becoming entitled to the possession of the land under the devise, they joined in a mortgage of it in fee to a stranger. One of the three then contracted to sell his share to the other two:—

Held, that each of the devisees, by making the mortgage, had forfeited his estate under the will, and each had become entitled as heir at law to an undivided third of the whole, and therefore the vendor could make a good title in fee simple to his undivided share to his brothers, the purchasers. *Re Bell*, 318.

8. *Power of Appointment—Disposition by Will — Execution of Power—Invalidity of the Bequest.*]—A wife having a power of appointment under her husband's will in the words "my said wife shall have full power to dispose of by will or otherwise," by her will devised all her real and personal estate to executors "in trust to convert the same into cash" and pay legacies, and as to the rest and residue to convert into cash and "divide the proceeds among friends, relatives and labour-