

tor, the Court could not give an opinion as to the right of the executrix to dispose of the residue of the estate in accordance with the directions in the will, viz., "among churches and charities or otherwise as he (the original executor) may see fit." It was quite possible, having regard to the date of the will, the vagueness of the language and the nature of the estate, that the direction might prove ineffectual. In the absence of the next of kin, it would be a dangerous experiment for the petitioner to attempt to comply with it. There was no reason why she should concern herself in the matter at all. She had paid the debts and the one legacy about which there could be no question, and some years ago she obtained an order for leave to pay the balance in her hands into Court. She paid it in accordingly, and was discharged from all further responsibility, especially as she or the former executor had advertised for heirs and next of kin of the testator without result. All she needed to do was to leave the money where it was, where the next of kin would find it when they applied for it, or where the Crown might do so if it desired to establish a claim.

No order made.

Lazier, Q.C., for the petitioner.

J. R. Cartwright, Q.C., for the Attorney-General for Ontario.

OSLER, J.A.]

[June 1.

IN RE PICKETT AND TOWNSHIP OF WAINFLEET.

Municipal corporations—By-law—Submission to electors—Omission to post by-law and notice—55 Vict., c. 42, sec. 293—Irregularities—Result of voting—Saving clause, s. 175.

Upon a motion to quash a municipal by-law which required the assent of the electors, and was voted upon by them and carried by a majority of 16 in a total vote of 550 out of an electorate of 941.

Held, that the unexplained omission of the Council to put up a copy of the by-law with a notice stating, inter alia, the hour, day and places for taking the votes, in four or more of the most public places in the municipality, as required by s. 293 of the Municipal Act, 55 Vict., c. 42, or at any place therein, was fatal to the by-law, the evidence disclosing many other irregularities, and the onus which was upon the council to show, under s. 175, that the proceedings were conducted in accordance with the principles laid down in the Act, and that the result was not affected by the mistakes and irregularities, not being satisfied.

J. J. McLaren, Q.C., for the applicant.

DuVernet and L. C. Raymond, for the municipality.

ARMOUR, C.J., VALCONRIDGE, J.,
STREET, J. }

[June, 5.

FOX P. SLEEMAN.

Discovery—Documents—Photographs—Privilege—Rule 507.

In an action by certain persons, claiming to be the next of kin of a testator, the beneficiary under the will having pre-deceased him, against the administratrix with the will annexed, for administration of the estate, the defendant