

**WILL—Continued.**

sonal estate, "and the proceeds to be placed so as to be conveniently drawn to assist in aiding good and worthy objects." *Held*, that the gift of an unnamed amount of money to the defendants was void, and that the gift in the rest of the will was not a gift to charitable, but to benevolent uses, and failed for uncertainty. *BREWSTER v. THE FOREIGN MISSION BOARD OF THE BAPTIST CONVENTION OF THE MARITIME PROVINCES* . . . 172

2. — *Construction*—*All my Estate, Real and Personal*—*Explanatory Declarations—Intestacy—Suit for Construction of Will—Costs.*] The Roman Catholic Bishop of Saint John is a corporation sole. The testator, incumbent of the bishopric, by his will made in his private name declared that, "although all the church and ecclesiastical and charitable properties in the diocese are and should be vested in the Roman Catholic Bishop of Saint John, for the benefit of religion, education and charity, in trust, according to the intentions and purposes for which they were acquired and established, yet to meet any want or mistake, I give and devise and bequeath all my estate, real and personal, wherever situated, to the Roman Catholic Bishop of Saint John, in trust for the purposes and intentions for which they are used and established." He then gave coupon bonds to the same devisee in trust for described charitable objects, a sum of money for masses, and a legacy of a sum of money. The testator held in his own name certain real estate which had been conveyed to him for religious, charitable and educational purposes of the church. He possessed in his own right real and personal estate, the income from which he had used in common with income from all sources of church revenue, for the uses of the church, including its educational and charitable needs, as well as for his private purposes. In a suit by the next of kin for a declaration that the testator had died intestate as to his real and personal estate, less the specific and pecuniary bequests. *Held*, that the testator's real and personal estate passed by the will. The Court being of opinion that the above suit was one proper to be brought, allowed the plaintiffs their costs to be paid out of the estate. *TRAVERS v. THE ROMAN CATHOLIC BISHOP OF SAINT JOHN* . . . . . 372

3. — *Construction—Subject of Gift—Farm on Which I Reside*—*Change of Residence—Codicil—Intestacy—Wills Act, c. 77, C. S. N. B., s. 19.*] Testator by his will devised to his daughter "the homestead farm on which I reside," and made no devise of the residue of his real estate, except a life estate therein to his wife. After the date of the will he acquired other real estate, including land known as lot A, to which he removed from the homestead farm, and where he

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resided at the time of his death. The will was confirmed by codicil executed after the testator had removed to lot A. By s. 19, c. 77, C. S. N. B., "every will shall be construed with reference to the real and personal estate comprised therein, as if it had been executed immediately before the death of the testator, unless a contrary intention shall appear by the will." *Held*, that lot A was not included in the devise to the daughter. *AYER v. ESTABROOKS* . . . . . 392

4. — *Construction—Legacy—Date at Which Beneficiaries to be Ascertained.*] Testator, by his will, bequeathed to his niece for life the interest on a sum of money directed to be invested in the name of her son A., or any more issue of hers there might be; "and in case of the death of the said [niece] or her son [A.] leaving more issue, the [principal] to be equally divided among them, and in case of the death of the said [niece] and her said son leaving no other issue," over to H. *Held*, that the issue of the niece at the time of her death, and not at the time of the death of A., took. *KERRISON v. KAYE* . . . . . 455

5. — *Construction—Legacy—Revocation of Life Interest—Acceleration—Period of Distribution.*] A testator directed a sum of money to be set apart by his trustees, and the income paid to A. for life, and that after his death the capital should be divided among A.'s children in certain shares. The testator further directed that in the event of A. dying while any of his children should be under the age of twenty-five years, the income of the fund should be paid to their mother while such children respectively should be under that age "for the maintenance and education of such child or children respectively while he or she shall be under that age." By a codicil the testator revoked the "legacy and annuity" to A. *Held*, that the gift to the children was not revoked, but vested on the testator's death, and that the share of each child in the capital was payable on his attaining the age of twenty-five years. *LEWIN v. LEWIN*. 477

— *Breach of trust—Will—Construction—Liability of trustee—Trustee Relief Act, 61 Vict., c. 26.* . . . . . 333  
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