

will lie on the Admiralty side of the Exchequer Court against a ship for necessities when the owner of the ship at the time of the institution of the action is domiciled in Canada.

W. M. German, K.C., for appellants. *J. A. Wright* and *A. L. Colville*, for respondents.

Burbidge, J.]

TRAIL v. THE QUEEN.

[April 2.

*Expropriation—Will—Construction—Gift over in the event of death—
Life estate—Interest on compensation money.*

Petition of right.—A testatrix made the following disposition of a certain portion of her estate:—"I give, devise and bequeath unto my niece, M. W. of H., spinster, daughter of my eldest sister M., all that dwelling house and lot of land now occupied by me (describing it), together with all and singular the appurtenances thereunto belonging, and all fixtures, furniture, bedding and clothing, and all sum and sums of money and other things that may be remaining and found in my said dwelling house at the time of my decease, and all debts due me, save except as hereinafter mentioned to have and to hold the said dwelling house, lot of land and premises aforesaid unto her my said niece, M. W., her heirs, executors, administrators and assigns, forever; but in case she should die without leaving lawful issue, than to my nieces hereinafter mentioned, and their children being females." Following this there was residuary gift or bequest to "the daughters of my sisters M. and H., and to the daughters or daughter of my late brother J., and to their children if any being daughters":—

Held, that there was nothing in the will to indicate any intention on the part of the testatrix that the gift over should not take effect unless in her lifetime her niece, M. W., died without leaving lawful issue; but, on the contrary, it was to be inferred from the terms of the will that it was the intention of the testatrix that in the case of the death at any time of the said M. W. without leaving lawful issue, the other nieces, to whom she left the residue of her estate should take the property. *Cowen v. Allen*, 26 S. C. R. 292; *Fraser v. Fraser*, 26 S. C. R. 316; *Olivant v. Wright*, 1 Ch. D. 348, referred to.

The property in question had been expropriated by the Crown for the purposes of a public work.

Held, that the suppliant, M. T., the devisee under the will, sub-nomine M. W., was in any event entitled to a life interest in the compensation money and that she might be paid the interest thereon during the pendency of proceedings to determine the respective rights of all parties interested therein.

C. H. Cahan, for suppliants. *H. Mellish*, for respondent.