

## Will—Continued.

6.—*Construction — Fund for Maintenance and Education — Time for Payment — Costs.*] B. G. F. the testator died October 1st, 1895, leaving him surviving a widow and one child, a son, the present plaintiff. The will contains the following provision:—"And I hereby will and bequeath all my estate, real and personal (of which I may die possessed) to my said executors and trustees for the following purposes — that they shall, in the first place convert all property into cash within one year from the date of my death, and after the payment of my just debts shall invest the remainder in safe interest paying investments and out of such investments I direct that the sum of one thousand pounds (£1,000) or the equivalent thereof be set apart and used by my said executors and trustees for the purpose of educating and giving a profession to my son Gordon Winslow Taylor providing he has not already been educated and received a profession." The will also provides that the plaintiff is not to receive his share of the residue of the estate until he reaches the age of twenty-five years. \*G. W. T. became twenty-one years of age September 2nd, 1909. *Held*, that as the plaintiff has reached the age of twenty-one years he is now entitled to have paid over to him the £1,000 fund with accumulations and interest, or to have transferred to him the securities in which this fund is invested. Trustees who refuse to pay over a legacy when they have no reasonable doubt but that it should be paid, will not be allowed any costs in an action to compel its payment. *Quære*, in such a case are not trustees personally liable for the costs of the proceedings? TAYLOR v. McLEOD, *et al*, TRUSTEES OF TAYLOR. . . . . 262

7.—*Construction of Will — Legacy—Charitable Intention.*] Catherine Murdoch died October 26th, 1909, leaving a will dated November 27th, 1905. The following legacy is found in the will:—"I give and bequeath the sum of one thousand dollars to be paid by my said executor to the Aged and Infirm Ministers' Fund in connection with Saint Stephen's Presbyterian Church in the City of Saint John." The defendant, the Board of

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Trustees of the Presbyterian Church in Canada, Eastern Section, is a corporation created for the purpose of taking in trust any property which may be conveyed or bequeathed or intended for the use of the said Church or any scheme or trust, not incorporated, in connection therewith. The Presbyterian Church in Canada maintains a fund which is not incorporated, known as the Aged and Infirm Ministers' Fund, in connection with the Presbyterian Church in Canada, and in this fund the ministers of Saint Stephen's Church are entitled to participate. There is no separate fund in connection with Saint Stephen's Church. *Held*, that the bequest does not fail for uncertainty, as the intention of the testator is easily ascertained; and that it should be paid to the defendant, the Board of Trustees of the Presbyterian Church in Canada, Eastern Section, for the Aged and Infirm Ministers' Fund in connection with the Presbyterian Church in Canada. JONES EXECUTOR OF CATHERINE MURDOCH v. SAINT STEPHEN'S CHURCH, *et al*. . . . . 316

8.—*Construction — Heirs at Law Statute of Distributions — Statutory Next of Kin — General Scheme of Will.*] R. died in 1876 leaving a will by which he devised practically all his property to trustees, upon trust for the benefit of his children and their heirs. D. D. R., a son of the testator, died after his father, leaving him surviving a widow and five children. *Held*, that the word "heirs" in the will should be construed in its strict legal and technical sense, and was intended to mean the heirs at law and not the statutory next of kin; and that the widow of the deceased son was not entitled to any part of the testator's property, under his will. SMITH, *et al*, TRUSTEES, ETC., OF ROBERTSON v. ROBERTSON, *et al*. . . . . 252

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