

the investment of the \$2,500, and that she was entitled to have it paid out of the residue in priority to the other legatees :—

Held, also that the deceased daughter's children were entitled to share in the residue. *Koch v. Heisey*, 87.

3. *Bequest to Poor of County—Town Detached from County for Municipal Purposes only—Right of Residents of Town to Participate in.*

—The testatrix by her will gave the residue of her estate in trust for a certain class of the poor of a county "who must have been *bonâ fide* residents of the said county before becoming destitute or needy." A town in the county originally formed part thereof for all purposes, but was in 1859, under the provisions of the Municipal Act then in force, detached from the county for municipal purposes only :—

Held, in the absence of anything in the context of the will clearly to the contrary, that residents of the town coming within the class referred to in the bequest were included therein. *Steele v. Grover*, 92.

4. *Bequest to Agricultural Society—Restrictions against Freemasonry, etc.—Impure Personality—Validity of Bequest to Promote Free Thought—Validity.*—By his will, testator directed his executors to invest \$2,000 and pay over the yearly interest to an Agricultural Society (incorporated under R. S. O. ch. 35, [1877] and thereby authorized to acquire and hold, but not to take by devise, real estate), to be applied as a premium for the best results in a specified mode of agriculture, but with a provision that all competitors should declare that they were neither Freemasons, Orangemen or Odd-

fellows; and, in case of neglect to comply with the conditions, the executors were to apply such yearly interest in procuring lectures against Freemasonry and other secret societies. The legacy was payable out of a mixed fund consisting in part of impure personality :—

Held, that the society came under the Mortmain Act, and so far as the bequest consisted of impure personality, it was void :—

Held, also, that the society was not bound to expend annually the interest received, but might apply it from time to time as deemed best, so long as it acted in good faith and did not divert the money from the purpose directed by the testator.

The executors were directed to invest the residue of the estate and to apply the annual interest therefrom for the promotion of free thought and free speech in the Province of Ontario :—

Held, that this bequest was void as opposed to Christianity.

Pringle v. Corporation of Nanawau, 43 U. C. R. 285, followed. *Kinsey v. Kinsey*, 99.

5. *Construction—“Nearest of Kin”—Period of Ascertainment—Tenants in Common—“Then”—Dower—Election.*—In the absence of any controlling context, the persons entitled under the description "nearest of kin" in a will are the nearest blood relations of the testator at the time of his death in an ascending and descending scale.

And where the testator devised his farm to his only child, a daughter, giving his widow the use of it until the daughter became of age or married, and provided that in the event of the latter dying without issue "then in that case" it should be equally divided between his "near-