

shall be sold and the proceeds thereof of each share shall be equally divided and given unto their respective lawful heirs then surviving them share and share alike”;

Held, that the will gave a life estate for the joint lives of the two sons with remainder in fee to the persons answering the description of the heirs of each son at the death of the longest liver of the two sons.

James Bicknell, K.C., and *G. C. Thomson*, for plaintiffs. *Barnum*, for adult defendants. *Harcourt*, for infant defendants.

Meredith, C. J.C.P.] REX EX REL. *WARR* v. *WALSH*. [Feb. 12.]

Municipal corporations—Election of councillors—Time of holding nomination.

Notwithstanding the Municipal Amendment Act, 1898, the nomination of candidates for the office of councillor, in towns having a population of not more than five thousand persons and where the election is to be by general vote, may take place at the same time and place as the nomination for mayor, and therefore at ten o'clock in the forenoon.

Semble, an error in this respect as to the time and place of the nomination would come within the curative provisions of section 204 of the Municipal Act, R.S.O. 1897, c. 223, and would not be a fatal objection to the validity of the subsequent election.

Judgment of the Masters in Chambers reversed.

T. J. Blain, and *D. O. Cameron*, for appellants. *E. G. Graham*, for relator.

MacMahon, J.] DAIGNEAU v. DAGENAIS. [Feb. 14.]

Mortgage—Costs—Excessive demand—Tender.

Demanding much more than is afterwards found to have been due is not such misconduct on the part of a mortgagee as will deprive him of his costs. To relieve the mortgagor from liability to costs he must make an unconditional tender of the amount actually due.

Province of British Columbia.

SUPREME COURT.

Full Court.] D'AVIGNON v. JONES. [April 16, 1902.]

Evidence—Relevancy—Evidence to contradict.

Appeal from the judgment of CRAIG, J., in the Territorial Court of the Yukon Territory.