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4.—— *Construction — Parol Evidence — General Intention of Testator.*] The following provision was contained in the will of Miss F. "that the sum of twenty dollars per annum be paid annually to Madeline Fisher, daughter of G. Frederick Fisher, formerly of Fredericton, now deceased, as long as she lives and remains single." M. F. had been married, but before the date of the will, had been divorced *a vinculo*, which fact was well known to the testatrix. *Held*, that M. F. was entitled to the legacy. The following clause was contained in the will of Mrs. F.:—"I release and direct my executors to cancel, without collecting the money, the mortgage to me from John Doherty." Mrs. F. held no mortgage from J. D., and she had never had any dealings with anyone of the name of J. D., but she did hold one from W. D. *Held*, that parol evidence was admissible to correct such a mistake. The codicil to Mrs. F's. will contained the following provision:—"'All the residue of my estate given to the City of Fredericton by the said will, I give and bequeath to T. Carleton Allen and J. Albert Gregory both of the said city, barristers-at-law, in trust for the purpose of founding an institution to be called the J. J. Fraser Fanaline Place for a home for old ladies, and for that purpose to execute a deed of settlement, containing such provisions and regulations and appointing such trustees, including themselves if they see fit, as they shall consider expedient, at which Home I direct that the said Sarah F. Bliss shall have a comfortable living for her life." The fund created by this provision is not at present sufficient for the purpose for which it was intended. *Held*, that the general intention of the testatrix that S. F. B. should have a comfortable living at the Home for the remainder of her life, should not be defeated by reason of the funds being at present inadequate for the maintenance of the Home as intended, and that an allowance from the annual income of the fund would be made to S. F. B. in lieu of the support and living intended for her at the Home. MORRISON *v.* BISHOP of FREDERICTON, *et al*.....162

5.—— *Residuary Clause — Construction — Gift inter vivos — Declaration of Trust —*

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Testamentary Gift — Wills Act.] J. A. C. the testator died April 15th, 1907. In his will, which was dated March 13th, 1906, there was the following residuary clause:—"all the rest and residue of my estate, real and personal excepting only such personal property as may be found in my private cash box, or in my box in the vaults of the Bank of New Brunswick, St. John, and which I had already given to my daughter Hannah Gertrude, to meet the immediate personal necessities of herself and her sister Jean, I give in trust to my executors, etc." On or before April 11th, 1905, the testator gave to J. S. C., one of the executors afterwards named in his will, an envelope which J. S. C. believed to contain securities, and which the testator at that time stated he had given to his daughter H. G. C., and requested J. S. C. to take the envelope and deposit it in a vault box in the Bank of New Brunswick. J. S. C. leased a vault box as directed, in the names of J. A. C. and H. G. C., either to have access, and gave both the keys of the box to J. A. C. After J. A. C's. death a number of securities were found in the private cash box, and in the vault box an envelope containing securities was found, addressed "Rev'd. John A. Clark, Hannah Gertrude Clark," and also a number of loose securities. *Held*, that only those securities which had been actually assigned, and to which she had the legal title, and which was therefore ear-marked for her, were the property of H. G. C. as given to her by the testator during his lifetime. *Held*, also, that in respect to the other securities there was no perfected gift *inter vivos* as no delivery had been shown; that there was no valid declaration of trust by the testator in favor of H. G. C.; that there was no valid testamentary gift to H. G. C.; and that therefore the other securities were a part of the testator's residuary estate. Where the only evidence of a gift of a promissory note is its endorsement to the alleged donee without delivery, the title does not pass. Money deposited by one, in a savings account, in his own name and another's, payable to the survivor, as a rule becomes the property of the survivor absolutely. *In re* PAUL DALEY, 37 N. B. R. 483 distinguished. CLARK *v.* CLARK, *et al*, EXECUTORS.....237