

the second legatee; but if the children or *issue* be bequeathed over, then they shall go according to the directions of the will.

Surplus undisposed;
who entitled
to it.

It seems also to be the settled practice in this province, contrary to the rule in England, that the residue of the estate undisposed of by the will, shall not go to the executor; but goes as undisposed surplus does in England, when there is a particular legacy given to an executor, for his care and pains, that is, that it shall be distributed.

Of a double
devise.

If land be devised in a former part of a will to one person, and in a subsequent part to another person, the rule now is, that the devisees shall take jointly; but if a chattel be so bequeathed, the latter part of the will is a revocation of the former, and the second legatee shall exclude the first.

Legatee in
place of a
creditor.

If the personal estate be exhausted in the payment of debts, or a legatee be obliged to abate of his legacy towards such payment, a legatee shall stand in the place of a creditor to recover satisfaction out of a real estate *devised to be sold* for payment of debts. So if there be a debt on mortgage, or bond, in which the heir is bound, and a legacy of a lease, or horse, the legatee shall