in contemplation of his own death. That is what is uppermost in his mind. "I do make this my last will and testament." No contemplation of any subsequent or further will.

The first clause contemplates his wife being alive at his own death. He gives all to her in that case and makes her sole executrix. It is as if he had said: "I give all to her, if she shall be living at my death." He knows that if she should not be then living his gift to her would fail.

That case having been provided for, he next considers the case of her not being then living. That is the case which still remains to be provided for. It is said he has not provided for the general case of her not being then living, but only for one particular and very special instance of the general case, namely, the case of his wife dying at the very same instant as himself. If that is so, it is certainly very strange. However, he does proceed to consider, if not the case of his wife not surviving him, one of the cases of her not doing so, and what is to be done with his property in that case. He himself is dead, and what if his wife shall also be dead at the same time, by accident or otherwise, so as not to take his property as provided in the first clause? The phrase he uses is, "in case both my wife and myself should by accident or otherwise be deprived of life at the same time, I request," etc. "Deprived of life" is equivalent to "dead," and the phrase is as if he had said "in case both my wife and myself should be dead at the same time." It is true, that language is large enough in itself to include the case of the wife dying after him, as well as the case of her dying before him, but he has already in the first clause provided for the first case, namely, that of her dying after him. That is provided for in the first clause, and the second clause will, if possible, be construed so as to be consistent with it. I think it cannot be denied that the event which has occurred is a case of both being deprived of life, that is, dead at the same time. The will is to operate at the testator's death and not before, and at the same time the wife is dead also. I think that is the true construction of the will. Unless it be so construed, the result is intestacy. The testator has failed to do what he intended to do, namely, to dispose of his property at his death. The Court favours a construction which prevents intestacy: Jarman, 5th ed., 809 n. (1).

The scheme of the will is very simple. If his wife survived him, she was to have everything and be sole executrix. If she should not survive him, it was to go partly to his own relatives, partly to the relatives of his wife, and partly to