

The motion was heard in the Weekly Court, Toronto.
 J. C. Thomson, for the executors and for the Campbell heirs.
 G. G. McPherson, K.C., for H. G. and G. A. Moulton.
 A. J. Russell Snow, K.C., for F. W. Weston & Sons.
 W. S. Ormiston, for three beneficiaries.

MIDDLETON, J., in a written judgment, said that under this will a certain fund was to be divided by the executors "among the surviving children of my sisters Jane Campbell and Hester Ann Moulton and the children of Annie Cochrane share and share alike on the death of my said sisters Jane Campbell and Hester Ann Moulton." These sisters had been given annuities. The testator died on the 16th December, 1876; Hester Ann Moulton, in October, 1890; and Jane Campbell, on the 23rd October, 1917.

Hester Ann Moulton left three sons and one daughter surviving her. The daughter and one son, who survived Mrs. Moulton, predeceased Mrs. Campbell. The assignees of the son contended that the son, having survived his mother, took under the will.

"Words of survivorship are to be referred to the period of division and enjoyment unless there be special intent to the contrary." *Cripps v. Wolcott* (1819), 4 Madd. 11; *In re Poultney*, [1912] 2 Ch. 541.

In *Stevenson v. Gullan* (1854), 18 Beav. 590, there was, as here, a life-interest in two annuitants, and after their death the estate was to be divided among the surviving children of both, share and share alike. It was held that those children who survived both annuitants alone took

That case was in point and satisfactory.

Order declaring that the assignees of the deceased son of Mrs. Moulton were not entitled to a share. Costs out of the estate.

MIDDLETON, J.

MARCH 30TH, 1918.

RE BARNETT.

Will—Construction—Bequest of Bank-shares to Executors in Trust—Income to be Paid to Widow for Life—After Decease of Widow Shares to be Divided among Children "then Living"—Distribution to be Made at Death of Widow among Children then Living—Exclusion of Representatives of Children Predeceasing Widow.

Motion by the executors of one Barnett, deceased, for an order determining certain questions arising in the administration of his estate as to the meaning and construction of his will.