

SUTHERLAND, J.:—The will of Thomas Crowe is dated the 9th December, 1876. He died on the 6th February, 1877; and letters probate of his will issued on the 12th March, 1877.

At the testator's death, he left him surviving his widow and one child only, viz., a son, also named Thomas, then aged about seven years. The latter died on the 27th July, 1903, unmarried and intestate. The widow did not re-marry, and died intestate on the 18th October, 1911. At her death, there were living one brother of the testator, George Crowe, and two sisters, viz., Edna Arnott and Sarah Ray. Two other brothers had previously died, leaving children who were all of age. Another sister of the testator, Anna Sanson, is also dead, leaving children, all of whom are of age. Anna Sanson is a witness to the testator's will; and, in any event, she and those who might take an interest through her would probably, under the Wills Act, be cut out.

The widow, at her death, left her surviving one brother and three sisters all of age; also three half-sisters and three nephews, the children of a deceased brother, Charles.

The important portions of the will are as follows: "That the rest of property interest of mortgages and money invested together with the enjoyment of my homestead and all the furniture therein I leave to my dear wife in sole use for her support and for the support and education of my son Thomas my only child to have and to hold the use and enjoyment of the same *for the term of her natural life, save and except* that if my widow should ever be married again that the use and enjoyment of *all my property aforementioned* shall then be given to my son Thomas aforementioned to have and to hold absolutely and for ever on the day that he shall be of the full age of twenty-one years. I further will and direct that all or any moneys that may be invested at the time of my decease shall be then invested by my executors and the interest thereof applied as above to the sole use and enjoyment of my widow so long as she shall remain such and that she shall also bear the expense of keeping my house or any other property governed by these presents in proper repair. I further will and devise that in case my son Thomas should die a minor then my property as before mentioned shall on the decease of my wife or if she shall be married again be divided into three equal parts and be given one part each to my brother George and my sisters Anna and Edna or their heirs. Provided always that all my plate shall be included in the portion to be given to my brother George being desirous that it should always remain if possible in the possession of a male heir of the name of Crowe."