

but to the result that she and her children took as tenants in common.

It was contended on behalf of the wife that these words constituted a gift to the parent for the maintenance of the children, and that the parent took absolutely, under the line of cases of which *Brown v. Casamajor* (1799), 4 Ves. 498, *McIsaac v. Beaton* (1905), 37 Can. S.C.R. 143, and *Re Culbert* (1915), 9 O.W.N. 312, are examples.

In the opinion of the learned Judge, this case came rather within *Newill v. Newill* (1872), L.R. 7 Ch. 253, and *Bibby v. Thompson* (1863), 32 Beav. 646.

The widow's interest was not cut down to a life-estate, although this case came perilously near the decision in *Crockett v. Crockett* (1847), 2 Phillips 553. The present case was distinguishable from the *Crockett* case, in that here the estate was given to the widow for the sole use and benefit of herself and certain named children, who were each to receive their shares on attaining their majority.

The subsequent words "and use her best judgment in disposing of the property among the children" are covered by *Re Hislop* (1915), 8 O.W.N. 53.

Apart from authority, no sufficient intention appeared on the face of the will that the beneficiaries were to take as joint tenants—rather the reverse, having regard to the direction to dispose of the property among the children after each of them came of age.

Therefore, the widow and children took equally the property of the testator as tenants in common.

MIDDLETON, J.

NOVEMBER 6TH, 1919.

*RE MITCHELL AND TOWNSHIP OF SAUGEEN.

Municipal Corporations—By-law Authorising Taking of Gravel from Land of Private Person—Municipal Act, sec. 483 (10)—Taking Unlimited both as to Time and Amount—Sec. 322 (3)—Fixing of Price—Appointment of Arbitrator under sec. 339.

Motion by Mitchell to quash by-law 632 of the Township of Saugeen, being a by-law for the expropriation of gravel for use upon the highways and bridges of the township.

The motion was heard in the Weekly Court, Toronto.

G. H. Kilmer, K.C., for the applicant.

W. R. Fraser, for the respondent.

* This case and all others so marked to be reported in the Ontario Law Reports.