

or other of his sons, J.M.S. and C.D.S., and directed that upon the decease of one of them who should first die one-half part of the residuary estate should be divided among the children of the one so dying in equal shares. It then proceeded, "And in the case the one so dying shall leave no issue him surviving, then the said share shall go to the surviving brother for his life and, at his decease shall be divided among his children in equal shares. I desire and direct that upon the decease of the surviving son of my said two sons, the other half part of the said residuary estate shall be divided among the children in equal shares and in case he shall leave no issue him surviving the said half part shall be divided among the children of the other deceased brother."

*Held*, that the words "shall leave no issue him surviving" must be interpreted "shall leave no children him surviving," and consequently that no interest under the residuary clause extended beyond the children of J.M.S. and C.D.S., and that existing or unborn children who might have interests by the death of all the children of J.M.S. before his death or all the children of C.D.S. before his death had no interests which the court was bound to regard.

*H. McInnes*, K.C., for plaintiff. *R. E. Harris*, K.C., & *W. B. Ritchie*, K.C., *W. M. Christie*, K.C., and *T. W. Murphy*, for various parties.

Graham, E.J.]

IN RE JAMES LING.

[July 28.

*Judgment recorded to bind land—No steps taken for upwards of 20 years—Expropriation—Parties entitled to money paid into court.*

In April, 1858, the holders of a mortgage upon land of J. L. brought an action of ejectment against him and recovered judgment by default, he not having appeared. No step was taken upon this judgment except to register it; no execution was issued upon it, no possession taken under it and it was never revived.

J. L. continued in possession until 1879, more than 20 years after the recovery of the judgment, and then went to live with a son, the actual possession of the property being abandoned after he moved away.

In 1864 the mortgagees assigned their judgment in ejectment to T. L., a son of J. L.