

follows:—"To my son James for the full term of his natural life and from and after his decease to the lawful issue of my said son James to hold in fee simple." The will then provided that in default of issue the land should go to a daughter for life with a like reversion to issue, failing which to brothers and sisters and their heirs. Another clause was as follows:—"It is my intention that upon the decease of either of my children without issue if any other child be then dead, the issue of such latter child (if any) shall at once take the fee simple of the devise mentioned in the second and third clauses of this my will."

*Held*, affirming the decision of the Court of Appeal (21 Ont. App. R. 519), which reversed that of the Divisional Court (23 O. R. 404), that if the limitation had been to the heirs general of the issue, the son, James, would have taken an estate tail according to the rule in *Shelley's Case*; that the word "issue," though *primâ facie* a word of limitation and equivalent to "heirs of the body," is a more flexible term than the latter, and more readily diverted by force of a context or superadded limitations from its *primâ facie* meaning; that the expression "to hold in fee simple" is one of known legal import, admitting of no secondary or alternative meaning, and must prevail over the fluctuating word "issue"; and that effect must be given to the manifest intention of the testator that the issue were to take a fee.

Appeal dismissed with costs.

*Armour, Q.C.*, and *McBrayne* for the appellants.

*Nesbitt, Q.C.*, and *Bicknell* for the respondents.

### WITCHES.

The *Clonmel Witch-Burning Case*, which terminated last week in the principal participators in this orgy of revived mediævalism being sentenced to periods of from twenty years' penal servitude to six months' hard labor, will be, we hope, the last chapter—so far as this country is concerned—in a truly lamentable and disgraceful history. For the existence of witches, strong, if negative, authority is to be found in the Mosaic precept, "Thou shalt not suffer a witch to live," and we all know how this dictum influenced the views not only of Sir Matthew Hale, but of Sir William Blackstone, who lived a century later, and ought to have known better. It did not seem to have struck either of these sages that the gradual evolution of a higher to a lower state of