

*Held*, that notwithstanding the conditions in the agreement, the dealings that had taken place between L. and the defendants, and the consent by L. that the machinery should remain affixed in the mill, constituted an absolute sale thereof so long as it continued incorporated with the freehold, and, in so far as regarded the rights of persons who were not parties to the agreement, the engine and boilers had become immovables by destination and formed part of the real estate.

That such parts of the machinery as were actually attached to the mill or built into the foundations at the time of the hypothecs were charged thereby as part of the freehold, and that the conditions in the agreement did not confer any privilege upon the unpaid vendor which would deprive the registered hypothecary creditor of the priority he had acquired under the provisions of the law relating to the registration of real rights.

*Wallbridge v. Cardwell*, (18 Can. S. C. R. 1.), followed.

Appeal dismissed with costs.

*Belleau, Q.C.*, for appellants.

*Robitaille*, for respondent.

18 May, 1896.

Ontario.]

CRAWFORD ET AL. V. BRODDY ET AL.

*Will, Construction of—Death without issue—Executory devise over—Conditional fee—Life estate—Estate tail.*

A testator died in 1856 having previously made his last will which was subdivided into numbered paragraphs and dated on the 27th May, 1852. By the third clause he devised lands to his son F., on attaining the age of 21 years,—“giving the executors power to lift the rent and to rent, said executors paying F. all former rents due after my decease up to his attaining the age of 21 years,”—and by a subsequent clause he provided that “at the death of any one of my sons or daughters having no issue, their property to be equally divided among the survivors.” F. attained the age of 21 years and died in 1893, unmarried and without issue.

*Held*, that the subdivision of the will into sections or paragraphs could not authorize a departure from the general rule as to the construction of wills according to the ordinary grammatical meaning of the words used by the testator, and that as