

they all die without issue, then the whole to fall to the eldest son of John Harrison then living."

The daughter Mary died in 1885, unmarried, leaving a will in favour of her sister Elizabeth.

The daughter Margaret died in 1888, leaving a husband and two children.

The third daughter Elizabeth died in 1913, leaving three sons and one daughter.

In an action brought by Elizabeth, in 1889, against the husband and children of her sister Margaret, Mr. Justice Street construed this clause of the will thus: The three daughters of the testator were joint tenants for life and tenants in common of the inheritance in tail, with cross-remainder in tail among them, with ultimate remainder over to the oldest son of John Harrison.

This construction is now challenged by the children of Elizabeth, the plaintiff in the former suit of *Ledley v. Brazel*; and it is supported by the surviving child of Margaret, one of the defendants in that suit.

Treating the matter as divested of that authority, I have reconsidered the meaning and effect of the will and agree in the result of the former decision. When Mary died without issue, her interest ceased and enured to the two sisters who survived her and had issue. These two became seized of moieties as joint life tenants and as tenants in common of the inheritance in tail, with cross-remainders between them. The meaning of the will is more plain by a little transposition of clauses. The whole is to be held by the three daughters jointly; if they all die without issue, the whole property goes out of the family and to the son of Harrison (an event that did not take place). Then, as to the joint holding of the three daughters, that was to be changed on the death of any of them. For instance, when Mary died, her life estate fell to the daughters Margaret and Elizabeth, the survivors; when Margaret died, her life estate fell to the survivor Elizabeth. That was the point determined in the action by Mr. Justice Street, that the ultimate survivor of the three daughters was entitled to all the yearly rents, as against the husband and children of the daughter Margaret. It is only if all died without issue that the estate was to go over, but two died, leaving issue, and of that the legal effect is to give an estate tail in a moiety to each parent. The cases referred to, *Cook v. Cook* (1706),