ler Pugh conveyed two freehold messuages in Lambeth-hill, in the city of London, unto and to the use of Andrew Mann, Margaret Jackson and Ann Jackson, their heirs and assigns for ever.

By indenture of the 25th of January, 1819, made between Andrew Mann, Margaret Jackson and Ann Jackson of the first part, William Bowdler Pugh of the second part, and Janet Russ Pugh of the third part, it was declared and agreed by all the persons parties thereto that Andrew Mann, Margaret Jackson and Ann Jackson, their heirs and assigns, should stand possessed (*inter alia*) of the premises assured by the indentures of the 15th and 16th days of January, 1819, "upon such and the same trusts, and for such and the same ends, intents, and purposes, and subject to such and the same powers, provisoes, and declarations as in the said indenture of the 7th day of March, 1818, are expressed, declared and contained of and concerning the pemises therein mentioned and described, or as near thereto as the difference of the respective estates of the said Andrew Mann, Margaret Jackson, and Ann Jackson, and their respective heirs, executors, and administrators therein respectively would admit, to the intent that the rents, issues, and profits of the said hereditaments and premises might be had, received and taken, and the said hereditaments and premises held, sold, conveyed, and assigned, and the produce thereof paid and applied unto such person and persons, and in such manner and at such time and times in every respect as in the said indenture of the 7th day of March, 1818, is expressed and declared of and concerning the premises therein particularly mentioned and described.

Janet Russ Pugh died in April, 1822.

William Russ Pugh attained his majority in October, 1827, Jane Russ Pugh in May, 1822, and Margaret Russ Pugh in February, 1831.

Margaret Russ Pugh, in July, 1834, married the defendant, Edward Browne.

Jane Russ Pugh died in August, 1862, intestate and unmarried.

William Bowdler Pugh died on the 13th of March, 1841, having devised all his freehold and leasehold estates to the defendant John Pugh, his only son and heir-at-law.

The freehold hereditaments subject to the trusts of the indenture of the 25th of January, 1819, were taken by the Metropolitan Board of Works, and the purchase-money, amounting to £2,100, paid into court. This sum was in May, 1867, invested in the purchase of £2,222 4s. 6d. Bank £3 per Cent. Annuities.

The bill was filed in October, 1867, by William Russ Pugh and Margaret Russ Browne, against (1) the then trustees of the indentures of 1818 and 1819, (2) Edward Browne and his children and (3) John Pugh, the devisee and heir-at-law of the settlor, William Bowdler Pugh.

The plaintiffs contended that, on the decase of Jane Russ Pugh unmarried, one equal third part of the freehold and leasehold hereditaments, subject to the settlements above mentioned, passed to them absolutely as tenants in common, and that one-sixth of the sum of £2,222 4s. 6d. £3 per Cent Consolidated Bank Annuities ought to be transferred to each of the plaintiffs.

The defendant John Pugh, the devisee and heir-at-law of the settlor, contended that, owing to the want of words of inheritance in the indenture of the 25th of January, 1819, the persons entitled thereunder took life interests only in the freeholds; and that, subject thereto, there was a resulting trust in favour of himself.

Fry for the plaintiffs.

Tooke for the trustees.

J. Simmonds for Edward Browne and his children.

C. T. Simpson, for John Pugh, the devisee and heir-at-law of the settlor, referred to Sheppard's Touchstone, 522; *Holliday* v. *Overton*, 15 Beav. 480; *Lucas* v. *Bandreth*, 28 Beav. 274; *Tatham* v. *Vernon*, 9 W. R. 822, 29 Beav. 604. [James, V. C.—Is there any authority for the position, that if there be a deed settling leaseholds in trust for A. B., his executors, administrators, and assigns, and freeholds upon the same trusts, or as near thereto as the circumstance of the case will admit, this is to be construed as giving A. B. an estate for life only in the freeholds?] The nearest estate to an absolute interest in leaseholds is an estate for life in freeholds. The fact of its being a trust estate would not affect the construction. No declaration of trust can convey a fee without proper words of limitation.

Fry, in reply, referred to the maxim, "Benignæ sunt faciendæ interpretationes cartarum propter simplicitatem laicorum ut res magis valeat quam pereat;" Co. Litt. 36a; *Roe* v. *Tranmarr*, Willes' Reports, 684; Broom's Legal Maxims, ed. 1864, p. 521; and to the dictum of Lord Hobart—"I do exceedingly commend the judges that are curious and almost subtil, *astuti* (which is the word used in the Proverbs of Solomon in a good sense, when it is to a good end), to invent reasons and means to make acts according to the just intent of the parties, and to avoid wrong and injury, which by rigid rules might be wrought out of the act;" *Earl of Clanrickard's case*, Hobart, 277; *Crossing* v. *Scudmore*, 1 Vent. 141; *Roe* v. *Tranmarr*, Willes, 684.

James, V.C., in giving judgment for the plaintiffs, observed:—Some cases were cited to the effect that a conveyance to A. and his heirs in trust for B. only gives B. a life estate. But Mr. Simpson was obliged to go further, and to maintain that the want of words of inheritance is absolutely fatal under all circumstances. There is no doctrine of this Court which compels me to maintain such nonsense.

Judgment for the plaintiffs.

UNITED STATES REPORTS.

SUPREME COURT.

Estate of John Crean, deceased.

(Legal Gazette.)

1. A testator devised real estate in trust for his son for life, remainder to his issue, and in default of issue, then for the use of his (testator's) right heirs forever; the son died unmarried and without issue.

Held, That this was a remainder contingent upon the event of the estate to the son's issue never taking effect, i. e. the death of the son without issue surviving.

2. That a devise to heirs of a testator will be construed as referring to those who are such at the time of the testator's decease, unless a different intent is plainly mani-