

I think that he is liable under it for the amount claimed, and direct that judgment be entered against him for \$370, interest, and costs.

LATCHFORD, J.

JANUARY 22ND, 1909.

WEEKLY COURT.

RE MILLINGTON ESTATE.

Will—Construction—Devise—Life Estate Contingent on Survivorship.

Application by the executors, and by one Edith Adelaide Martin, a devisee, under the will of James Millington, late of the township of Ancaster, deceased, for a summary order determining what interest the said Edith Adelaide Martin had in certain lands under a devise contained in the will.

A. L. Baird, Brantford, for the applicants.

M. A. Secord, Galt, for Wellington Kirkland and others.

F. W. Harcourt, K.C., for infants.

LATCHFORD, J.:—The testator devised certain lands to his executors and trustees. One of such executors renounced his right to probate, and probate duly issued to the other two, a sister of the testator and her husband.

The trustees were to hold for the trustees now acting during their lives. The will then proceeds: "At the decease of the survivor of them, I give and devise the said parcels of land and premises to my niece, their daughter, Edith Adelaide Conn (now Mrs. Martin), to hold to her during her natural life, and I direct my surviving trustee, the said James Galloway,"—who renounced probate—"his executors or administrators, within one year after the decease of the survivor of my said sister Sophia Conn, her husband George Conn, and my said niece, the said Edith Adelaide Conn, to sell and convert into money the said parcels of land and premises . . . and to divide the same equally between the children of my said niece Edith Adelaide Conn, share and share alike, but in case of the death of my said niece without leaving any children her surviving, then to divide the same equally between my then surviving brothers and sisters." The last mentioned division is to be made per stirpes.