

Evans v. Evans (1892), 2 Ch. 173, the limitation was "to the use of A. for life," with "ultimate limitation" to the use of such person or persons as at the decease of A. shall be his heir or heirs at law, *and of the heirs and assigns of such persons;*" which, of course, is a similar limitation to that in *Greaves v. Simpson*, supra, and received the like construction, but in the case in hand there are no such "superadded words."

If the construction placed on the word "heirs" in *Re McAllister* is followed in Ontario, then it would appear as if in Ontario there can be no case in which the rule in Shelley's case can apply, because in any limitation in this province the word "heirs" is always open to the construction that it means not the common law heir, but the persons who are to be ascertained as heirs by reference to our statute law. On this point Lord Macnaghten in *Van Grutten v. Foxwell*, supra, makes this pregnant observation: "The question now in every case must be whether the expression requiring exposition be it 'heirs' or 'heirs of the body' or any other expression which may have the like meaning, is used as the designation of a particular individual or a particular class of objects, or whether, on the other hand, it includes the whole line of succession capable of inheriting." See *Van Grutten v. Foxwell*, supra. If the words are susceptible of the former construction the rule in Shelley's case does not apply, if on the other hand they are susceptible of the latter construction then it will apply. In the words used in the will in question *In re McAllister*, we fail to see any indication of any intention to designate any particular individual or class, on the contrary the words used seem plainly to indicate the whole line of succession capable of inheriting.

WHAT IS AN INTERLOCUTORY JUDGMENT?

This question is one which is apt to arise where it is sought to appeal to the Supreme Court of Canada. That court has no jurisdiction to entertain appeals from Ontario in common law actions from any judgment that is not final. Many curious decisions have been arrived at, as to what are and what are not final