

order, and direct that the said John Smith Read shall not be entitled to the possession of such real estate until the said 7th day of December, 1878." Paragraph 6: "Should the said John Smith Read die before coming into possession of my said real estate as above mentioned, I hereby authorize and empower my said executors to sell and dispose of all my said real and personal property and to divide and pay the proceeds thereof equally among the then surviving brothers and sisters of the said John Smith Read."

The testator made a codicil on 5th October, 1871, which expressly directed that it should be taken as part of the will, and which republished and confirmed the will so far as not altered thereby. The codicil provided: "If the said John Smith Read die without male issue, I will and bequeath the said real estate be not sold, but that it become the property of George McCleave Read, brother of the said John Smith Read, and should the said George McCleave Read die without male issue I will and bequeath the said real estate to Nicholas Robert Read, brother of the said John Smith Read and George McCleave Read. It is also my wish that the said real estate be not sold during the lives of the above named John Smith Read, George McCleave Read, and Nicholas Robert Read."

The testator died childless on 28th October, 1871, leaving as his widow her to whom he had by the will devised the land for life, and she survived until 7th August, 1886, and then John Smith Read entered into possession of the land and had since continued in possession.

At the time of this application John Smith Read had five children and his brothers also had each a child or children.

W. E. Middleton, for applicant.

R. W. Evans, Owen Sound, for adult respondents.

J. W. Frost, Owen Sound, for infant respondents.

IDINGTON, J.—It is to be observed that the will and codicil were both made and came into effect by the testator's death before sec. 32 of the Wills Act, or its original enactment, introduced into this country the change it made in regard to such expressions as used in this codicil.

The first question is, whether . . . John Smith Read takes an estate in fee simple free from all restrictions.