

At the time of the death of testatrix, and for some years previous thereto, John W. Campbell resided with his aunt Martha S. Campbell, who is the person referred to in the will as Martha Campbell; and John W. continued to reside with his said aunt Martha until her death (which occurred on or about the 17th day of August, 1910), on an adjoining farm which she owned. The said parcel of 20 acres was cultivated in the ordinary course of the farming operations which Martha and John were then carrying on, and John says that the said Martha and he were thus in joint possession of the said parcel of 20 acres from the date of Anne's death until Martha's death.

The parcel of land mentioned is the only land of which Anne Campbell was possessed at the time of her death.

Neither Martha nor John ever conveyed away or encumbered or otherwise disposed of their interest in the said parcel of twenty acres.

The sum of two hundred dollars, directed by said will to be paid to George Campbell, the nephew, was duly paid to him.

John W. Campbell now contends that, under the devise set forth above, Martha and he became joint tenants of said parcel, and that he, as the survivor, is now entitled to the whole.

I have outlined the situation of affairs as above because, while declarations by the testator of what he intended by his will will not be received, yet extrinsic evidence of surrounding circumstances to shew what he probably intended, is admissible. *Davidson v. Boomer* (1868), 17 Gr. 218. It would be entirely reasonable to confer a joint tenancy on a young man and his maiden aunt working and living upon the adjoining farm.

And, I think, apart from circumstances, the use of the word "jointly" in the will creates a joint tenancy, especially when it is coupled with the direction that "they are to pay my nephew, George Campbell, the sum of \$200"; not that each of them is to pay the sum of \$100 to George Campbell. I find two cases in different States of the Union where the law is practically the same as R. S. O. ch. 119, sec. 11. In *Case v. Owen* (1894), 139, Indiana, 22, it was held that the word "jointly" in the addendum of the deed, creates in the grantees a joint tenancy. Coffey, J., says, at p. 24:—