

At the trial it was shewn that Mrs. Purcell, the grantor in the indenture, desired to make some provision for the family of Alexander P. Tully, who was an adopted son of hers, and accordingly gave certain instructions to Mr. Smith, her solicitor. She explained to him that Tully was improvident, and therefore she would not give him the land in fee simple, but only for his own life, with remainder to his children, and also an estate to his widow during her widowhood in case she survived him. Mr. Smith made known to Mr. Tully the nature of the proposed gift, to which he assented, and thereupon Mr. Smith prepared the necessary conveyance.

Mr. Smith testified that the terms upon which Mrs. Purcell was prepared to convey the property are set forth in the type-written part of the deed in question, which is as follows: "This indenture made . . . in pursuance of the Act respecting short forms of conveyances, between Isabella Purcell, of the first part, . . . and Alexander P. Tully, of the second part . . . witnesseth that, in consideration of natural love and affection and of the sum of one dollar . . . the said party of the first part doth grant unto the said party of the second part, for and during the term of his natural life, the lands and premises hereinafter mentioned, and upon his death unto those children of the said party of the second part who shall survive him or shall have died before him leaving lineal descendants surviving at the death of the said party of the second part, their heirs and assigns forever, in equal shares, in fee simple, as tenants in common. The said estate granted to the children of the said party of the second part to be subject however to the support and maintenance on the said lands hereinafter mentioned of Eliza Tully, wife of the said party of the second part; during such time as she shall remain widow of the said party of the second part"—and then follows a description of the lands.

It appears that Mr. Smith dictated to his stenographer the words above quoted, with instructions to her to type-write them in deed form, intending the words quoted, with a description of the lands, to be the complete instrument, and also instructed her to put a back upon it, and take it to Mrs. Purcell for execution.

The stenographer, having engrossed the dictation, proceeded to annex thereto the last page of a blank form of conveyance, filled up the blanks in this form, and took the instrument to Mrs. Purcell, who thereupon executed it.