

reconveyance by Lamb to either Hill or Blackley, which has disappeared, just as Hill's assignment to Blackley has disappeared. If there was such a reconveyance, then Farewell's title was complete. Even without it, the plaintiffs, as claiming under Farewell's deed to Martin, would be the beneficial owners of the way and entitled to exercise it and to prevent its interruption by the wall built across it by the defendants.

Apart from such a question and from the effect to be given to the reference to the way in the deed from Hill to the defendants, the plaintiffs and those under whom they claim have been, by themselves and their tenants, using the way as of right for more than twenty years before action; after Lamb's estate in lot 3 on Hughson street accrued in 1888, and after the deed to Farewell in 1890.

The appeal should be dismissed with costs.

HIGH COURT DIVISION.

BOYD, C.

DECEMBER 7TH, 1914.

GREENLEES v. GREENLEES.

Will—Construction—Devise of Farm to Eldest Son—Provision for Use of Farm by two other Sons till Devisee "Comes to Reside"—Death of one Son—Survivor Continuing in Possession—Acceptance of Leases from Eldest Son in Ignorance of Right—Estoppel—Inoperative Restriction on Sale of Farm—Right of Devisee to Put an End to Occupation by "Coming to Reside" or by Sale.

Action by Robert Greenlees against Angus Greenlees to recover possession of a farm and payment of a sum for rent.

The action was tried without a jury at Sarnia.

W. N. Tilley, for the plaintiff.

R. I. Towers, for the defendant.

BOYD, C.:—This action is brought by one brother, aged 82, against another brother, aged 72, to recover possession of a farm and for payment of a sum claimed for rent. Notice was duly given to determine the overholding tenancy alleged by the plaintiff. The defendant disputed the tenancy, but was willing