

HON. MR. JUSTICE MIDDLETON:—The question arises under the will of the late Myron B. Ames, who died on the 21st July, 1881, having made his will dated 19th April, 1881. This will has not been proved, but has been registered.

The testator gives the north half of lot thirty in the second concession to his wife for life, so long as she remains his widow; she to provide for the education of certain of the testator's children so long as they remain at home and assist in farming the lands in question. Upon the death of the widow, (which occurred on the 21st July, 1910), this parcel goes to Thomas "during the term of his natural life, without impeachment of waste he the said Thomas Ames paying thereout the several legacies or sums following, (then follow certain legacies amounting in all to \$2,100), all which said four several legacies or sums I charge and make chargeable on the said north half of said lot number thirty . . . and from and after the decease of the said Thomas Ames I give and devise said north half of said lot number thirty in the second concession of the said township of South Dumfries unto such of the children of the said Thomas Ames as shall be living at his decease and to the children or remoter issue then living of any child of the said Thomas Ames as shall be then dead leaving any such issue the same children to take and divide *per stirpes* and the said children and issue of the said Thomas Ames to take among themselves as tenants in common, and subject to the said several devises and charges as aforesaid. I give and devise the said north half of the said lot number thirty in the said second concession of the said township of South Dumfries unto the said Myron B. Ames, Margaret H. Walker, Emily Thomas, Ursula Jane Barger, Amelia Ames, and John Ames, their heirs and assigns forever as tenants in common."

The time for payment of these legacies has now passed, and Margaret, who is entitled to her legacy of \$500, makes this application.

There is no doubt that these legacies are charged upon and payable out of the land.

Thomas Ames asks to have it declared that he is entitled to an estate in fee or in tail. If he is, he will have no difficulty in raising and paying the legacies in question. If he is not, and if he is entitled to the life estate only, he asks