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 until her death (which occurred on or about the 17th 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 incumbered or otherwise disposed of their interest in the said parcel of twenty acres.

The sum of $200 directed by the 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 the 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, that 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. 1897 ch. 119, sec. 11. In Case v. Owen (1894), 139 Ind. 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: "As tenants in common are two or more persons who hold possession of any subject of property by several and distinct titles, the word "jointly" can find no place in describing an estate to be held by them." See also Davis v. Smith, 4 Harrington (Del.) 68.

The four unities which are the requisites of joint tenancy all here exist.

The judgment, therefore, will be that, on the true construction of the will, Martha S. and John W. Campbell became joint tenants, and that he is now solely entitled by jus accrescendi.