restricted in their operation and effect to the death of the first testators respectively are not too remote and may operate as good executory devises if not as contingent remainders.

The first of these clauses is the only one bearing upon the distribution of Margaret Park's Estate now before the Court, which provides that in the event (which has occurred) of her dying without issue living at her death the part devised by her said Fathers Will shall be equally divided between his surviving children during the term of their natural lives, under this particular limitation it cannot be contended that a larger estate than a life Estate is limited to any of James Calders children or that there is any provision for the benefit of his grand children or descendants besides children and therefore after the expiration of the life estates thus expressly given to his children the reversion is either devised to Margaret Park as heir in fee and descends to her heirs at Law she having died intestate or was undisposed of by the said James Calder and descends to his heirs at Law, the Heirs at Law of said Margaret and James being the same,

Your respondents further allege that by the terms of said Will as well the 5th part or share originally given to each child as that limited over to the remaining children for life is directed to be equally divided between them and and to be held in severalty. And in accordance with this view after the death of George Calder the proceedings are desired for a partition in your Honorable Court already referred to here had and passed by which certain portions of said Calders Estate were assigned to your Respondents and others in severalty as better appears from said Decree &c.

Your respondents now therefore allege further that upon the death of George Calder as above mentioned the fifth part or share devised to him by his father by virtue of said Will became vested as to a fourth part thereof for life in each of his sisters and upon their respective deaths such one fourth part descended to the said four sisters and their descendants per stirpes as Heirs at Law of said George and said James Calder subject also however to the legal effect of said proceedings for a partition.

And your Respondents deny that the terms "remaining children" are to be construed children remaining at their respective deaths "as will be contended for by the Complainants, but should be construed "other children above named" and therefore your Respondents contend that an equal life Estate is given by said Will to each of the five children of said Calder in the fifth part or share devised to the other children, to become vested in such other children in the event of any of said children dying without issue at their death respectively, and that therefore upon the death of said Margaret one fourth of the share originally given to her is limited to her sister Sarah for life another fourth to her sister Charlotte for life and the two remaining fourths being the shares limited to George and Mary for life should now be divided absolutely between the said Sarah and Charlotte as to one third thereof each and between your respondents and others the descendants of said Mary Little per stirpes, as to the remaining third thereof.

And upon the deaths of said Sarah and Charlotte respectively the fourths limited to each of them for life should be deemed to be divided between the survivor and their descendants and your respondents and others the descendants of Mary Little equally per stirpes.

And your respondents also allege that the fourth of George

Calders fifth part held by the said Margaret for life should also be now absolutely divided between the said Sarah and Charlotte, each to receive one third part thereof and the remaining third part to be given to your Respondents and other the descendants of Mary Little per stirpes.

Your Respondents allege that construing the Word remaining "other" not only gives the true meaning of the Word, but in this way the main intention of the testator to divide his Estate equally among his children and their descendants per stirpes is best carried out, while by construing the Word "surviving" this intention of the testator is disappointed.

And your Respondents further contend that of contrary to this view your Honor should construe the Word remaining" to mean "surviving" still by the true construction of the limitation above mentioned the only shares or portions of the testators estate limited over for life to his surviving children are the shares directly and expressly devised by him to them, and the limitation over to such surviving children is not intended to embrace and does not embrace the shares or shares indirectly acquired by survivorship out of such shares or shares be embraced they are only devised to such survivors for life.

And your respondents further contend that the limitation over in the event of the children of said Calder dying with children living at their death cannot be held to give a construction to the limitation in the event of their death without children, or to the ultimate limitation over to Surviving so as to give to the Words issue in said ultimate limitation contained the restricted meaning of issue living at the deaths of all the children but if said ultimate limitation in remainder should receive this construction and thus render the limitation over to said Survivors good as a contingent remainder, and the Estates limited to the children originally should also be construed to be only estates for life, still this would not change the requirements in regard to the true construction and effect of the limitations in remainder after such Estates for life both in regard to the shares originally devised to Margaret Park for life, as well as her share of the fourth devised originally to George Calder;

And these respondents now submit to the Court the true construction of said Will, and ask the Court to determine the shares of the property allotted to and held and enjoyed by the said Margaret Park to which these respondents and the parties to the suit as descendants of said James Calder are respectively entitled. They also agree with the Complainants in desiring that the Real Estate so allotted to the said Margaret Park and held and enjoyed by her for life as aforesaid, by the Decree of this Court shall be so partitioned and divided among the several parties entitled thereto according to their several portions. But if the same cannot be so divided without a sale they then consent that the same may be sold for the purpose of such division.

Bruce & Bruce Solrs for Respdts

And on the same day comes into Court here a certain Adam Denmead Trustee by William B. Hill Esquire his Solicitor and files in Court here the following answer said Bill &c.

To the Honorable John H. Price Judge of the Circuit Court for Baltimore County sitting in Equity. The answer of Adam Denmead