prior gift is expressly for life."

In the case at bar, the prior gifts were not expressly for life, but comprised the annual income only of the property in question.

On every ground, then, the bequests over in this case should stand as ulterior gifts, to take effect on the death of Robert Brown Henderson and Margaret Jane Lewis.

1st. Because the testatrix is not supposed to have contemplated the event of herself surviving the objects of her bounty, particularly as in her last codicil, made shortly before her death, she provided for the death of a legatee, which had already occurred, but left the will unchanged in other respects.

2d. Because the plain intent of the will is that the bequests over should take effect on the death of the legatees for life.

3rd. Because there is no necessity in order to gratify the contingency, implied by the words in case of death, to make them refer to the death of the legatees in the lifetime of the testatrix, for the reason that there are plain contingencies expressed, on the happening of which the ulterior gifts are to take effect. To show this it is only necessary to refer to the language of the will. The testatrix, after declaring that the net proceeds of the rents shall be divided among her children provides that "in case of the death of any one or more of my said children, then the share or shares of such child or children to go to his or her lineal descendants, and in case either of my said children shall die without leaving issue, then the share of such child shall go to my surviving child or children equally, share and share alike." That is, the provision indicates two contingencies, on the

happening of which the estates in remainder are to go over, first, the contingency of a child dying leaving issue, in which case his or her share is to go to the surviving child. These contingencies look to the death of the life tenants, not to the death of the testatrix.

2nd Objection. It is contended by the solicitor for the plaintiffs, that even if the will intended to create equitable life estates in Robert Brown Henderson and Margaret Jane Lewis, these life estates would, by virtue of the rule in Shelley's case, coalesce with what he claims to be equitable estates in remainder of their lineal descendants or issue, (for both expressions are used as having the same meaning,) and thus create absolute equitable estates in Robert and Margaret. The answer to this is, "the rule in Shelley's case was never a rule of intention, or of construction to reach and carry out the settler's intention, but it was established as an absolute rule of property," (Perry on Trusts. § 358.) And that "it is notorious that the rule disappointed the intention of settlers in most cases." (Ib.) The rule is therefore never extended by Courts of Justice, but is confined within the strict limits which have been established. The words heirs or heirs of the body, are technical words of limitation, but the word issue is prima facie a word of purchase. (Ib. 371.) The words lineal descendants are precisely equivalent to issue, and are so used in this will.

Family settlements and wills are constantly drawn, wherein life estates are given in trust to parents, with remainder to their issue or lineal descendants, and such trusts it is believed always have been, as they ought to be,