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Title: Legal Opinion of John Dickinson on Joseph Yard's Will

Date: September 21, 1765

Location: I-SpahrB-1958-18

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1716. May 16. Joseph Yard made his Last will & Test. devising to his
eldest Son a Messuage & lot in Phil^a. in Fee simple
and all the Residue of his Estate to his wife Mary
in Trust for & use following that is to say to receive &
take the Rents & profits thereof for her own use during
her natural life and that she either by Deed or Last will
should divide & distribute the said Residue amongst his
five younger Sons & the Survivors of them and the share
or portion so to be allotted to each of them should
wholly & solely be & remain To the Only Use &
Behoof of each of his five younger Sons & to each of
their resp. Heirs for ever according to & accord^g. reasonable
& discretional division & distribution of his said wife
And if any of his said Sons should happen to die with
out Issue lawfully begotten then the share of such
deceased should be equally divided amongst the Sur-
vivors of them & their Heirs for ever
(see the will)

1720. Febr. 10. Mary Yard of Widow Tenant for life & Possess^g by Ind^r. dated
this day granted to her Son Benjamin Yard Two Messuages
& lot of Ground to hold to him his Heirs & Assigns for ever
Record. E. vol. 4. p. 148. & seq.

1721. Nov. 7. The said Benj. Yard by Ind^r. bearing date this day granted
the Premises unto Tho^s. Rutter in Fee.

1765 Now Mary the ^{only} Daughter ^{& Heir} of Benjamin Yard claimeth the Premises
Told by her Father pretending that by the will of her
Grandfather the Estate was intailed and that her Father
being Tenant in Tail by said will had no Right to sell
without first dorking the Intail. The said Mary
was born in the life time of her Father.

~~Issue~~ Whether the last Estate of Benjamin was Fee
simple or intailed Estate

I have considered the Will of Joseph Yard, and though
by the Rules of Law a Limitation upon a Person
dying without Issue generally creates an Estate
Tail, yet it seems by a very reasonable Construction
not to have been the Testator's Intention in the
present Case to have given such an Estate to any
of his Children — He first expressly says that
each of them shall have his Share to him & his
respective Heirs for ever; which gives a Fee simple.
Then follows the Limitation of dying without
issue, which in all Probability was intended by
the Testator to take Place, in Case any of the
Sons dyed before Division made without issue,
as he had before declared his Will to be, that after
the Division made, each of them should be
seiz'd of his Portion in Fee simple —

This Construction is confirmed by the Convey-
ance made by the Wife, the Parties who must
be presumed to have been perfectly acquainted
with the Testator's Intention, & has conveyed
to Benjamin Yard in Fee simple —

John Dickinson
Philadelphia
Sept. 21st - 1765

Sequen Counsel
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I have examined the copy of your letter
concerning the account of the
petition, that relates to the
petition, and find it to be
correct, and in conformity
with the law, and the
rights of the parties
concerned, and I have
therefore signed the
same, and directed the
proper officers to
execute the same
according to the
law, and the
rights of the
parties concerned.

The petition is
correctly stated, and
the law is in favor
of the petitioner, and
I have therefore
signed the same,
and directed the
proper officers to
execute the same
according to the
law, and the
rights of the
parties concerned.

June 16
1770

Richard
Carr
Court

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