

so perishing.<sup>13</sup> Husband, wife, and two children were swept off the deck of the same vessel by one wave, and there was no distinct evidence that one was seen later than another, although evidence was given that the husband was a strong man and a good swimmer, and that the wife was a weak and delicate woman and could not swim at all. But the House of Lords would not assume that one survived the other, *Wing v. Angrave*, 8 H. L. Cas. 183. The case was that the wife made a will under a power of appointment reserved to her by her father's will. By the will, she devised her property to her husband and "in case my husband shall die in my life-time," and the dispositions in favour of the children should fail, to A. The husband made his will in similar terms. They both perished as above stated. And it was held, Lord Campbell indeed dissenting, that A. could not claim under either will; and that the property went over to those who were, by the father's will, to take in default of appointment by his daughter. The union of the two titles in A. could not affect the question. He could not club his rights and succeed in one because he did not succeed in the other, but was bound to establish his claim clearly under one or the other. See also *Underwood v. Wing*, 4 De G. M. & G. 633, affirming S. C. 19 Beav. 459.

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<sup>13</sup> By the common law "where several lives are lost in the same disaster there is no presumption of survivorship by reason of age or sex; nor is it presumed that all died at the same moment. Survivorship in such a case must be proved by the party asserting it. No presumption will be raised by balancing probabilities, that there was a survivor or who it was." *Cowman v. Rogers*, 73 Md. 405. Cf. *Thomas v. Cochran*, 89 Md. 403; *Wollaston v. Berkley*, 2 Ch. D. 213; *In the Goods of Alston*, (1892) P. 142.

In *Schaub v. Griffin*, 84 Md. 557, a father and son both left the state in 1881. In 1888, when the father became entitled to a life interest in a sum of money and the son to a vested remainder in the same, the full period of seven years had not run and the presumption, therefore, was that both were alive at this time. In 1886 or 1887 the father was in fact seen in the state. *Held*, when the question arose in 1895, that there was no presumption that the father survived the son from the mere fact that he was seen at a later period.