

(8) In the event of the income not amounting to \$2,500 a year, would the widow of Stephen Wood be entitled to draw upon the *corpus* to make up her annuity of \$2,500.

A. The annuity is payable out of income. It is payable absolutely, and if it requires all the income from the estate, the income must be so applied. The *corpus* cannot be resorted to.

(9) Is Margaret Wood, eldest child of Stephen Wood, being the first to attain 21, entitled to be paid the sum of \$338.25 said to be surplus income over the \$2,500 a year earned during the first three years of administration, and which was taken and used in subsequent years by the executor, when the income fell short of \$2,500?

A. Assuming that Margaret Wood did not receive the first payment of annuity of \$500, and that there was income sufficient to pay the \$2,500 to the widow in full, the executor might well have paid the \$338.25 to Margaret. I am, however, not able to say that in the face of deficiencies in after years that she has a right above that of the widow to this surplus of former years.

(10) The executors, not having set apart, at the time of the death of Stephen, enough of the estate to provide for the annuity of \$2,500, to the widow for the time she may be entitled to it, and of \$1,000 for the time she may be entitled to the reduced amount of \$1,000, and not having made any division, are the children of Stephen who may be found entitled to share, now entitled to demand such share?

A. The shares of the children of Stephen could not, at his death, be finally determined. The amount of each share depends upon the number of Stephen's children who attain 21. The share of each child vests, upon that child attaining 21. The time of final distribution will be after the death of the widow and after all the children of Stephen are of age. If the executors are satisfied that the amount they set apart to produce the annuity for the widow is sufficient, a payment on account might be made to any child over 21.

It is no part of my duty to advise this; it is a matter for executors, and may depend upon conditions, not the same at all times, in regard to the *corpus* of the estate.

If the assets of the estate are sufficient to warrant it, keeping in mind the necessity of having income sufficient to say the \$2,500, annuity, it will be quite proper for executors to make a payment on account of the unpaid annuity to Mar-