

the expression "the times of being entitled to payment," as indicating that the provision in the latter part of clause 18, now under discussion, was intended to provide simply for a time of payment, and not for the interest or right in the income from the estate of the child under 25. But that argument cannot avail against the express provision that what would have been a share shall form part of the general estate.

The succeeding provision had at the trial a strong influence upon my mind, "at the death of each child his or her children shall be entitled in equal shares to the same proportion of the capital of my estate as he or she was entitled to of the income, and the same shall be paid over by my executors accordingly." It seemed to me that the result might be that a child might die under 25 leaving issue, and that if the argument I am giving effect to were sound, such issue would receive a very small part of the estate. The daughter, being entitled to \$12,000 out of an income say of 10 times as much, dying under 25 leaving issue, that issue would be held to be entitled to receive only 10 per cent. of the estate. But it may be that there did in fact exist at the time of the making of the will some good reason for this, or that the exact effect of such a provision was not considered at all. The provision has nothing of the absurd about it, and further consideration has convinced me that this provision cannot be allowed to modify the express words of clause 18.

Another provision, namely, that for the payment to W. of the sum of \$1,000 while she is guardian of an infant child or children, may also be referred to as affording an argument that a child under 21, and therefore under 25, might have a "share" beyond the annuity given. But this difficulty, if it be one, is got over by considering that the sum of \$1,000 is to be paid out of the sum payable yearly for the support, maintenance, and education of such child or children.

I think the plaintiff is right in her contention. If I had given effect to the contention of the defendant Sheriff, the question would arise as to the right of this defendant to receive the annuity of \$12,000 to which the plaintiff is no longer entitled, and also one-third of the 90 per cent. This consideration, I think, supports the conclusion at which I have arrived.