

J. D. Knox is to share in this and in the Queen street property, if he is otherwise qualified, and not to be debarred by reason of his getting the Otonabee farm. He is qualified to receive a share in this, as is J. M. Knox.

The case was proper to bring before the Court—the costs of all parties will be out of the estate.

RIDDELL, J.

MAY 3RD, 1910.

RE GURNEY.

Will—Construction—Distribution of Estate—Period of Distribution—Payment of Income to Widow.

Motion by the executors of the will of Charles Gurney, deceased, for an order determining certain questions as to the distribution of the estate arising upon the construction of the will.

The testator, after providing for his wife, divided his estate into three parts, and as to the third part, which alone was in question here, he made the following provisions:—

“4. The third . . . shall be held by my said trustees in trust to pay the income thereof to Lavinia, wife of my son, Charles, until the time for distribution hereinafter mentioned, if she so long remains his wife or widow, in trust for the maintenance and support of herself and her children issue of her marriage with my son, and, if she should cease to be the wife or widow of my said son, then my trustees shall pay and apply such income or so much thereof as they may deem proper in or towards the support, maintenance, and education of the children issue of such marriage.

“Before my trustees distribute or pay the principal of such third part, they shall, if the said Lavinia be still living and the wife or widow of my said son and so long as she lives and so continues, hold the sum of \$10,000 in trust to pay to her the income thereof, and on her death or second marriage such sum of \$10,000 shall be distributed and paid as is herein provided for the remaining principal of such third part.

“My trustees shall distribute and pay the principal of such third part, including the sum of \$10,000 reserved to provide an annuity for my son's wife, in equal shares unto and among the children issue of such marriage so that each child who is a daughter shall receive her share at the age of 21 years and each child who is a son shall receive his share at the age of 30 years if he shall then