

with beneficial enjoyment postponed; and there is a marked distinction between a gift to a person named, with an added provision as to age of taking, and the class of cases in which the legatee cannot be found or ascertained, until the contingency happens: see *Holmes v. Prescott* (1864), 12 W.R. 636, 33 L.J. Ch. 264. Finally, it has been laid down that where an estate, prior to the attainment of the named age, is given to a third person either for the benefit of the devisee or some other person, the estate is to be regarded as vested: see the cases collected in *Theobald*, 6th ed., p. 551.

Reference also to *Dobbie v. McPherson* (1872), 19 Gr. 262.

There should be a declaration that Charles takes the accumulated rents; costs out of the estate.

MIDDLETON, J., IN CHAMBERS.

JANUARY 4TH, 1921.

*RE MAPLE LEAF CONDENSED MILK CO.

Criminal Law—Delivering Milk on Sunday—“Work of Necessity or Mercy”—Lord’s Day Act, R.S.C. 1906 ch. 153, sec. 12 (m)—“Caring for Milk.”

Case stated by Police Magistrate for the Village of Winchester, under sec. 761 of the Criminal Code, upon the dismissal of a charge laid against the company under the Lord’s Day Act, R.S.C. 1906 ch. 153.

G. F. Henderson, K.C., for the prosecutors.

Strachan Johnston, K.C., for the company.

MIDDLETON, J., in a written judgment, said that the company had a condensed milk factory at the village of Chesterville and took delivery on Sunday from the farmers. The magistrate found as a fact that during the summer season the farmers are not able to keep the milk over Sunday and deliver it on Monday in a condition suitable for manufacture, and the work occasioned by delivery at the factory is less than the work necessary to call for the milk at the farms.

The statute provides (sec. (12)) that, notwithstanding its provisions, “any person may on the Lord’s day do any work of necessity or mercy, and for greater certainty, but not so as to restrict the ordinary meaning of the expression ‘work of necessity