

said that, apart from the interest which the son had in the residue of the estate after the death of his mother, he took no share or interest in the property of the testator in Ontario.

In answer to the fourth and fifth questions, the learned Judge said that, all persons interested in the estate being *sui juris*, the executors might divide the property in specie among them, instead of selling it and dividing the proceeds, and that the division might be at any time, and before the expiration of the 5 years mentioned in clause 7, sub-clause 2.

Further questions submitted by the notice of motion were not answered because the material before the Court was not sufficiently explicit. If necessary these will be dealt with after vacation and after the further material necessary has been supplied.

Costs of all parties to be paid out of the residuary estate.

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SUTHERLAND, J.

JULY 26TH, 1919.

RE ELLIOTT.

*Executors—Direction in Will to Create Trust Fund of Specified Amount—Agreement Made between Executors and Beneficiaries of Fund—Beneficiaries Entitled to Income on Full Amount from Date of Agreement but not before—Expense of Administering Fund—Sale of Bank-shares—Duty of Executors.*

Motion by the executors of the will of William George Elliott, deceased, for the advice and opinion of the Court with reference to questions arising in regard to the distribution of the estate.

The same estate was the subject of the action of Elliott v. Colter (1919), ante 115.

The motion was heard in the Weekly Court, Toronto.

A. E. Watts, K.C., for the executors.

L. F. Heyd, K.C., for Jane A. Elliott and Eliza M. Tomlinson.

W. T. Henderson, K.C., for Mary Bridgeman, Donald E. Bridgeman, and Dorothy Atkinson.

■ A. M. Harley, for Luella Elliott, Sarah Lillian Dunster, and John E. Gatchell.

SUTHERLAND, J., in a written judgment, after setting out the provisions of the will, referring to the facts of the case, and quoting from the reasons for judgment of Rose, J., in Elliott v. Colter, *supra*, said that the first three questions submitted related in fact to the same matter—the claim of the life-annuitants to