

pursue, and who are entitled to share. Having answered the specific questions, 1, 2, 3, and 4, it is not necessary now to do more.

If any difficulty arises in regard to those claiming to be entitled, a further application may be made.

Costs of all parties out of the estate.

LENNOX, J.

MARCH 5TH, 1915.

RE COTTER.

Will—Construction—Incomplete Devise—Trust—Predecease of Trustee—Residuary Estate—Distribution—Avoidance of Intestacy—Discretion of Trustee—Period of Ascertainment of Class of Beneficiaries.

Motion by the Trusts and Guarantee Company, administrators (with the will annexed) of the estate of Elizabeth Cotter, deceased, for an order determining certain questions arising in the administration of the estate as to the proper construction of the will.

The motion was heard in the Weekly Court at Toronto.

G. D. Conant, for the applicants.

G. N. Shaver, for Robert Henry Johnston.

D. Urquhart, for Honora Ann Walsh.

F. W. Harcourt, K.C., for the infants.

LENNOX, J.:—The deceased appointed her daughter Margaret Brimacombe executrix of her will and trustee of her estate, and devised all her estate to her. . . .

The executrix died, without issue, in the lifetime of the testatrix, and the Trusts and Guarantee Company were appointed administrators with the will annexed.

The clauses of the will causing difficulty are:—

“Second, I give devise and bequeath unto my said trustee my house and lot . . . to be held by my said trustee in trust for my grandson Harry Johnston until he arrives at the age of 26 years, but in case he should die before arriving at that age, then my said trustee shall dispose of said property as she is herein-after directed to dispose of the residue of my estate.”

“Fourth, I give devise and bequeath unto my daughter Margaret Brimacombe all the rest residue and remainder of my