proceeds thereof), "to become theirs absolutely from thenceforth forever."

By a duly executed deed of appointment of the 1st June, 1904, after reciting that there were four children, issue of the marriage, and that advances had been made to three, Brooke and his wife appoint irrevocably the estate remaining at their death to be divided equally between the four children, the heirs of the body of any not then living to take the parent's share. Any advances theretofore or thereafter to be made are not to be brought into hotchpot or taken into consideration on making the division.

The estate is being realised under an order made in an action in which two of the children, infants at the time of its institution, were plaintiffs, and the son (D. O. Brooke), his wife, and two adult children were defendants.

On the 28th June, 1909, an order was made adding as defendants the five children of Charles Brooke—three, then infants, being represented by the Official Guardian.

There were not, at that date, any issue of any of the children or grandchildren other than the added parties, and the Official Guardian was appointed to represent the "unborn issue" of these parties. Since that order, issue has been born, and I think the Guardian represents them as well as any issue that may yet be born.

Upon the material now before me, no particulars are given; but I am told that much land has been sold, and much yet remains unsold. The sum of $1,983.01 is now in Court.

Considerable money has been paid out on similar applications; but it does not appear that the rights of the parties have, as yet, been fully considered. The two surviving sons of D. O. Brooke, other than the applicant, consent to the order asked, and notice has been given to the adult grandchildren and the Official Guardian.

The deed of appointment is in due form, and appoints the $1,000 to the applicant "by way of advancement."

The question is: "Is the applicant entitled to receive this sum upon production of the appointment in his favour, or must he go further and satisfy the Court that the money is to be paid him 'by way of advancement'?"

The precise question is well discussed in Bailey v. Bailey (1888), 14 Atl. R. 917. There was in that case a trust for twenty-one years, with power of advancement. The trustee thought the best interests of the cestuis que trust would be served by an immediate division of the estate. It is said: "The trustee argues that he has the power, under that clause in the will which gives