

which was to be held by the defendants as trustees of a will, to be paid or transferred to him on his attaining twenty-one. The testatrix died in 1875, the plaintiff being then an infant. The plaintiff attained twenty-one in 1880. The present action was brought in May, 1892. One of the defendants did not appear; the other, who had been the acting trustee and executor, deposed that he had spent the whole of the residue while the plaintiff was an infant in his maintenance and education, but he admitted that he had never rendered any account, but said he had told the plaintiff during his minority how the fund had been applied. The plaintiff made no charge of fraud or breach of trust; nor was there any evidence that the defendant had converted any part of the fund to his own use. Under these circumstances North, J., held that the Trustee Act, 1880, s. 8 (see 54 Vict., s. 13 (O.)), applied, and that the action was barred. It was therefore dismissed, but without costs.

INJUNCTION—PLAYING MUSICAL INSTRUMENTS—MALICIOUS NOISE—REASONABLE USE OF HOUSE.

*Christie v. Davey*, (1893) 1 Ch. 316 is somewhat amusing reading. The plaintiff and defendant were next-door neighbours. The plaintiff's wife and daughters were professional musicians, and they and their pupils were accustomed to practise music and singing to such a degree that the defendant's patience became exhausted. At last, in desperation, he took it into his head to try the homœopathic principle, and thought to drown the music in the plaintiff's house by making discordant noises on his own premises by playing on concertinas, trombones, trays, etc.; whereupon the plaintiff brought this action to restrain the defendant from continuing such noises, or musical exercises. The defendant claimed, by way of cross relief, an injunction to restrain the plaintiff's excessive musical performances. On a motion for an interlocutory injunction, North, J., while holding the plaintiff was within his rights in practising and permitting others to practise music in his house in the ordinary pursuit of his calling as a music teacher, even though it did disturb and annoy his neighbours, yet that the defendant was exceeding his rights in maliciously making musical or other sounds or noises merely to annoy or disturb the plaintiff and his family. While, therefore, the injunction claimed by the plaintiff was granted, that claimed by the defendant was refused.