

become of age, when principal is to be equally divided among them." He died in 1894, intestate, leaving him surviving the said Mary Jane Shafer and 5 children, all of whom are still living, 2 being still under the age of 21 years. Letters of administration were granted to the Toronto General Trusts Corporation, and in the capacity of administrators they received the said sum of \$2,000. Ever since they have been paying interest on this sum at 4 per cent. to the widow.

This application is to be decided upon the strict rights of the parties, independent of any transfer or agreement.

The application is by Daniel L. Shafer, the eldest child, and is substantially for "an order directing that the proportionate share of the above-named Daniel L. Shafer in the sum of \$2,000 held by the Toronto General Trusts Corporation, as administrators of the estate of . . . George Alfred Shafer, deceased, be paid over forthwith unto the said Daniel L. Shafer." This is opposed by the widow and the official guardian acting for the infants. The other adult children do not seem to have been served; at all events they were not represented by counsel.

Were it a question of interpreting a will, as at present advised I think that the application should, upon certain terms as to costs, etc., succeed. The provisions of this policy, were they contained in a will, would have the effect of a direction to divide the interest equally among the widow and her 5 children. . . .

[Reference to *Jubber v. Jubber*, 9 Sim. 503; *Re Hart's Trusts*, 3 De G. & J. 195.]

Had this, then, been the case of a will, I think that each of the 5 children would have a vested interest in the income to the extent of one-sixth and in the corpus to the extent of one-fifth. Then the rule of *Saunders v. Vautier*, Cr. & Ph. 240, 4 Beav. 115, would probably be found to apply (see *Re Yuart*, ante p. 373), and the applicant would be held entitled to receive the one-sixth of the corpus now and one-thirtieth upon the death or marriage of his mother.

But that result flows from two principles (which in essence are in reality only one): (1) that the interest in the corpus is vested; and (2) that a legatee is not bound to wait for the expiration of the period to which the payment of the corpus of his legacy is postponed, if he has an absolute inde-