

in time, and then he may be found to be without remedy, as the power to extend the time for hearing is unlimited only when notice is not given of the decision, and no provision is made for the absence of notice after original hearing.

Motion dismissed with costs.

SUTHERLAND, J.

FEBRUARY 8TH, 1911.

RE LEITCH.

Will—Construction—Legacy—Death of Legatee—Substitution of Infant Legatee—Application of Income for Maintenance—Absence of Direction in Will.

John Archibald Leitch died on the 23rd May, 1908, having first made his will dated the 20th May, 1907, letters probate whereof were duly issued to his son Archibald Durand Leitch as executor on the 15th June, 1908.

The following were the material clauses of the will:—

“5. I direct that the sum of \$10,000 be set aside by my executors . . . and that the annual income therefrom be paid to Minnie Leitch, widow of my late son Thomas John Leitch, as long as she remains the widow of my said son.

“6. After the death or marriage of the said Minnie Leitch, whichever event shall first happen, I direct that the said sum of \$10,000 be divided equally between my grandchildren John Archibald Leitch and Flora Durand Leitch. Said sum is not to be paid to them until they respectively attain the age of 21 years.

“7. I give and bequeath to my said grandchild John Archibald Leitch the sum of \$5,000, to be paid to him when he reaches the age of 25 years; the income in the meantime to be applied towards his support, maintenance, and education. I give and bequeath to my said grandchild Flora Durand Leitch the sum of \$5,000, to be paid to her when she attains the age of 21 years; the income in the meantime to be applied towards her support, maintenance, and education.

“8. In the event of the death of either of these my said grandchildren before attaining the age of 21 years and dying without issue, then I direct that the survivor shall take the share of the one so deceased.

“9. In the event of both of my said grandchildren dying before attaining the ages of 21 years, and leaving no issue, then