

HON. R. M. MEREDITH, C.J.C.P.:—Two questions are involved; one of law, the other of fact. Is there any power in the Court, either in the action or upon the application, to authorize or give effect to that which is sought, notwithstanding the infancy? If so, is it advisable to do so?

If the latter question cannot be answered in the affirmative, it is needless to consider the other; therefore it may save time to deal with the last question first.

Two points are made by those who support—and no one opposes—the application. It is said, in the first place, that unless this settlement be carried out, a sale, sooner or later, of the one-third undivided share in the land is almost unavoidable, and that ownership of it by a stranger would be detrimental to the interests of the infant. The property is situated in what is at present one of the most favoured and valuable business sections of Toronto, and is subject to a lease, which may be continued for eighteen years to come. At present valuations the lease is unfavourable to the owner. And it is said, in the second place, that in view of increasing values of land in the locality and of the favourable character of the terms upon which the infant can acquire the third undivided share of the land, the right to acquire it ought to be exercised; that no one *sui juris* would think of rejecting it.

But there are other things to be considered.

The infant is an invalid girl, still suffering from the effect of that which is said to have been an attack of infantile paralysis, when she was about two years old. It is hoped that the effects of that illness will, before long pass away, and that normal conditions will come to her. In dealing with the case, the hoped-for and wished-for better health and strength must have due weight.

But it is yet the case of an invalid girl, not of an active, strong, ambitious boy, who could far better risk much to gain more; because, even if it were all lost in the venture, he would still have that which might prove a greater asset; the health and strength of manhood, with which to win a fortune of his own.

To carry out the present scheme would reduce the infant's income materially until she attained the age of thirty-five years should she live; the property being hampered with the lease before mentioned. But it is said that by that time it may nearly double its present selling value. That may be so; and it may not. If a piece of land having only forty-five feet