not in this case, in Court: but I quite fail to perceive any substantial difference, in principle, that that can make. If infants are not lawfully entitled to have it applied for their maintenance and education, the Court should no more direct its misappropriation to that purpose in the one case than the other. If lawful and right that it should be so applied, the Court should enforce such an application of it by others just as well as to apply it if in its own hands.

Neither exercising the power of parens patriæ, nor otherwise, has the Court power to dispense infants' property as if its own: it has no power to be bountiful; it has power to give effect to legal and equitable rights only.

So, too, it is manifest that this application is regularly made at Chambers, by way of originating notice of motion: and that would be equally so whether the guardians were assenting or dissenting: there being no question involved respecting the power of the Court, or the right of the infants to the property in question. The statute so expressly provides: the Infants Act, R.S.O. 1914 ch. 153, sec. 31 (2). Actions for maintenance went out of vogue, very properly, many years ago: see Ex p. Starkie (1830), 3 Sim. 339, and In re Christie (1840), 9 Sim. 643.

Where, as in the case of In re Lofthouse (1885), 29 Ch. D. 921, there is a substantial question, as to the right of the infants to the property, to be tried, it may be quite proper to refuse to try the question other than in the ordinary mode of trial. . . .

I cannot imagine any good reason for considering that sec. 2 of the Infants Act does not cover such a case as this; but if it did not, under the Rules of Court, which have the effect of statutory enactment, the application would be quite regular by way of originating motion, and as the difference between a Judge sitting in Court and sitting at Chambers has now grown to be even something less than gowned or not gowned, any technical objection on that score ought to be quite short-lived: see Rules 600 and 605. . . .

It is not whether the trustee approves of or objects to the application; it is whether the opposition to it, by whomsoever offered, raises a question which ought to be tried in the ordinary way, and one which the party objecting desires to have tried in that way.

Nothing then of a formal character stands in the way of this application. . . .

The infant children own absolutely, the one, about $1,700, and the other, about $1,900; their shares, or what remains of