

the Peterborough property "for a home for my wife and family;" (4) until the son attained the age of 25 years all the income to be applied in maintenance and support of wife and family; (5) on the son attaining the age of 25, he was to have the testator's business, at a fair price, to be fixed by the executors (this was done); (6) on the son attaining 21 the executors might sell; (7) "I will that the proceeds of my said Queen street property shall be invested if it is sold, or the income from it if it is not sold shall be paid over yearly or as received for the support of my wife so long as she lives or remains my widow;" (8) "I will that on her marriage or death the proceeds of my Queen street property shall be divided equally amongst my children then living, the lawful children of a deceased child to take the parent's share;" (9) "As to my estate other than the Queen street property, I will that it shall be divided equally amongst my children, the children of a deceased child to take the parent's share, but no child to take until he or she attains the age of 25 years;" (10) the executors to have power to advance on account of shares between the ages of 21 and 25, or on the marriage of a daughter, not exceeding half the child's share; (11, 12, 13, and 14, were not important); (15) "I will and direct that my said Otonabee farm shall go to my said son J. D. Knox, the said farm, or the proceeds of it if sold, shall be delivered to him on his attaining the age of 25 years, and that, in addition thereto, he shall have an equal share with my daughters in the final division of my estate."

J. D. Knox did in fact obtain delivery of the farm.

D. W. Dumble, K.C., for the executors.

E. L. Goodwill, for the widow.

F. W. Harcourt, K.C., for the infants.

RIDDELL, J. :—The questions for interpretation are three:—

1. What is the meaning of clause 8?

In the event which has happened, only two of the children can possibly be living at the time of the death or marrying of the mother, but the provision that the lawful children of a deceased child are to take the parent's share modifies the expression "then living" so as to make it plain that the testator intended that at the time of the death of the widow stock should be taken of the family, and if any child were then dead leaving children, then, for the purpose of the division, the child should be considered alive—and the share he would have taken had he been alive should go to his children. But any who might be dead without children should not be counted in the division. J. D.