

construed in the same way: Theobald on Wills, Can. ed., p. 595; Re Oliver (1915), 9 O.W.N. 190, 191.

Therefore, the children of any of the testator's children who predeceased Mary Forster were entitled to a part of the estate to which their parent would have been entitled if he or she had survived.

Order declaring accordingly; costs of all parties out of the estate.

ORDE, J.

JULY 15TH, 1920.

RE SECOND CHURCH OF CHRIST SCIENTIST AND DODS.

Covenant—Conveyance of Land—Building Restrictions—Grantee Confined to Building Private Dwelling House—Proposed Erection of Church-building—Breach of Covenant—Restraint by Injunction—Requirement that Building be Commenced within one Year—Neglect to Enforce—Waiver or Estoppel—Right of "Physician" to Exercise Profession in Private Dwelling House—Church-corporation Doing Work of "Healing."

Application by the church (a corporate body), under Rule 604, for an order determining questions as to the interpretation of two deeds made by Andrew Dods conveying lands now owned by the applicant.

The application was heard in the Weekly Court, Toronto.

G. H. Shaver, for the applicant.

P. E. F. Smily, for Andrew Dods and others, respondents.

ORDE, J., in a written judgment, said that, before 1910, Dods subdivided a block of land in the city of Toronto into 29 building lots, and registered plan 1267 shewing the subdivision. With the exception of certain lots, which he still retained, Dods had sold all the lots shewn upon the plan, and each conveyance contained the following provision, after the habendum, "and subject also to the conditions and restrictions contained in" a schedule attached. This schedule was in part as follows: "To the intent that the burden of the reservations and restrictions shall run with the land, the purchaser, for himself, his heirs, executors, administrators, and assigns, covenants with the vendor to observe and comply with the following, namely: (1) No building or erection shall be placed upon the land except a detached private dwelling house fronting on High Park Gardens, and costing at least \$5,000,