

bury's Laws of England, vol. 16, p. 452, para. 927. In this case it could not be said that the conditions could not possibly be at an end by the occurrence of the facts mentioned—no judgment should be given until all the available facts have been threshed out.

The defendant was endeavouring to sell the land; and the plaintiff must undertake to speed the trial, as in *Sheppard v. Kennedy*. If, before the 15th October, the plaintiff files his statement of claim and with it files an undertaking to go down to trial at the next sittings at Chatham, the appeal will be allowed; if not, the appeal will be dismissed; in each case costs in the cause in any event to the successful party.

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RE MOISSE—BRITTON, J.—OCT. 4.

*Will—Construction—Devise to Grandchildren—Absolute Estate in Fee—Sale of Land by Order of Court—Division of Proceeds—Infants' Shares—Maintenance.*]—Motion by the Canada Trust Company, executors of William Moisse, deceased, for an order determining certain questions arising upon the will of the deceased. The testator devised to his grandchildren, the children of his son, all his real estate situate in the city of London, subject to certain provisoes and conditions, which may be summarised as follows: the executors to collect all rents, make necessary repairs, pay taxes and insurance premiums, and pay the balance of the yearly income to the testator's son for his life to help him to support himself and family; should the son die before the youngest grandchild attains 21, the balance of the revenue to be spent for the support of the grandchildren; when the youngest grandchild has attained 21, if the son is dead, or after his death thereafter, the executors to divide the real estate as equally as possible between the grandchildren. The testator died on the 20th January, 1905; the son died on the 26th January, 1907. The executors sold the land and converted the estate into money, pursuant to an order made by ANGLIN, J., on the 15th February, 1909. BRITTON, J., was of opinion that there was an absolute devise to the grandchildren—no gift over. Order declaring that on the true construction of the will the executors were empowered to pay out to the adult grandchildren, and to the infant grandchildren as they should become of age respectively, their shares of the money realised from the sale, and to make such advances to the infants during their minority as may