As the gift in question, expressly, was only after the death of the life-tenants, as it was only then that the testator gave and bequeathed the land to the children, it might be thought that that was the time the testator meant—that the children then living, and so the only children who could actually take and have the benefit of the gift, were the only children who could have been meant.

But the cases have long rejected such an interpretation, holding that in such cases as this the gift is immediate to those living at the death of the testator, and that to children born after that and during the life-tenancy there is a gift to each at birth: the intervening life-estate merely postponing the receiving and enjoyment of their gifts. By one of the Vice-Chancellors it was said that in effect a gift from and after a life-estate gives a life-estate and remainder: In re Stuart's Trusts (1876), 4 Ch.D. 213: a view of the law which seems to have been readily accepted and given effect by some of the Judges of this Province: Latta v. Lowry (1886), 11 O.R. 517; Rogers v. Carmichael (1892), 21 O.R. 658; and Re Brown (1913), 4 O.W.N. 1401: though the result can hardly be always that which the testator intended, for instance the case of a child born, during the life-tenancies, on one day only to die the next.

The cases relied on by Mr. Beaton were inapplicable: in them the death of the child happened before that of the testator: In re Harvey's Estate, [1893] 1 Ch. 567; Re Williams (1903), 5 O.L.R. 345.

The result was, that children, if any, living at the time of the testator's death, and children born during the life-tenancies, took vested interests, that is, were within the class; and that such of them as were living, and the legal representatives of such as were dead, took the property in question, one equal share for each child.

Costs, as usual, out of the property in question.