

with reversion to my brother on the decease of my father;" and gave, devised and bequeathed to his brother, his heirs and assigns forever, "the remaining one-half of all my ready money, securities for money . . . and the one-half of all other my real and personal estate whatsoever and wheresoever." At the time of the testator's death there was a sum of money on deposit to his credit in a bank.

*Held*, that the father was entitled for his life only to the use of one-half of the money, and that, subject to the life interest of the father, the brother took the same absolutely. *In re Percy*, 24 Ch. D. 616, *In re Jones, Richards v. Jones* (1898), 1 Ch. 438, and *In re Elma Walker* (1898), 1 Li. 5, distinguished.

Judgment of MACMAHON, J., reserved.

*George Kerr and Joseph Montgomery*, for plaintiff. *Widdifield and Middleton*, for defendant.

Boyd C.]

HARRISON & HARRISON.

[Feb. 20.

*Will—Devise—Accumulation over twenty-one years—Contingent interest—Non-acceleration—Executors' duty for twenty-one years—R.S.O. 1897 c. 332—Provision against litigation—Construction of will—Adverse litigation.*

The testatrix who died on Feb. 14, 1892, devised certain money and lands to her executors and trustees with directions to invest and keep invested and reinvested (compounding interest) until March 17, 1915, when the whole accumulated fund was to be handed over to the plaintiff if he was then alive. But if he died at an earlier date, leaving living issue then to his children, and if he died without leaving any living issue then to the other children of the testatrix.

*Held*, that the illegal part of the will was not in payment of the corpus in 1915 but in the undue accumulation of income for over twenty-one years; that the plaintiff's interest was merely contingent or subject to be divested if he did not live until 1915: that the court will accelerate payment in cases which rest on the postponement of enjoyment of property absolutely bestowed on the beneficiaries as it is against public policy to restrain a man in the use or disposition of property in which no one but himself has any interest but that in this case there is no acceleration in the enjoyment of any interest under the will as an effect of the statute R.S.O. 1897, c. 332, and no such absolute vested interest in the plaintiff as entitled him to stop the accumulation in order to claim a present payment: that the executors might proceed with the conversion of the lands and the combination and accumulation of the interest for twenty-one years: that for the following two years the accumulation must cease and the income be paid out to those entitled, personally to the next of kin and realty to the heirs at law if the plaintiff is then alive.