

trustees, being his share of moneys derived from an insurance on the life of his mother, be paid over to him by the trustees, notwithstanding that all the children of Mary Dicks had not attained the age of 21, her will having provided for distribution when the youngest child should attain that age.

A. J. Russell Snow, K.C., for the applicant and adult children.

F. W. Harcourt, K.C., for the infant children.

E. A. Forster and R. L. Defries, for the trustees.

TEETZEL, J.:—Under the two policies of insurance upon the life of Mary Dicks, for \$5,000 each, dated respectively 30th January and 27th February, 1894, the insurance money upon her death was payable to the assured's "surviving children, share and share alike."

She died on 2nd March, 1895, and by her will, dated 10th December, 1894, she appointed her husband trustee to receive all the moneys payable under the two policies and others, describing them, and, after declaring them to be for the benefit of her children, directed that her husband should hold the insurance moneys and the other proceeds of her estate upon the following trusts:—

1. "To pay my just debts and funeral and testamentary expenses."

2. "To invest the proceeds thereof in securities of the Dominion of Canada or province of Ontario, or in mortgages on real estate, or stocks of chartered banks or building societies or loan companies, and to apply the annual income arising therefrom in the support of our children, and, should my said husband deem it necessary and advisable, he shall be at liberty to apply the corpus of my estate in the education, maintenance, and advancement of the said children or any of them, and, as soon as the youngest of my children shall have attained the age of 21 years, my said husband shall divide the said sum or so much thereof as may then remain, in equal shares, per stirpes et non per capita, among my children then surviving or the issue of any child or children deceased."

Then follows a provision that if all the children die before attaining 21 without issue, what may remain of the moneys shall go to the husband absolutely, but, in case any of them leave issue, the issue shall inherit in equal shares.

The application is made by Frederick Dicks, a son, for an order directing that the sum of \$1,160, now in the hands