

and \$8,000 on attaining 27; and to each of the three daughters of the testator, \$7,000, to be paid as follows: \$1,500 on marriage or at 21; \$2,500 at 24; and the balance at 30. Each of the children was to be paid the interest upon the unpaid portion after attaining 21, and until payment of the principal. These bequests were followed by a provision that in case of the death of any son or daughter without issue surviving, so much of his or her legacy as was not already paid should form part of the residuary estate, but in case of there being lawful issue, such issue should take the parent's share. In my opinion, the bequests were all subject to this provision, and its effect was to prevent the children from taking vested indefeasible interests in the various instalments of their legacies until the time for payment fixed by the will arrives: *O'Mahoney v. Burdett*, L. R. 7 H. L. 393; *In re Schnadhorst*, [1902] 2 Ch. 234; *Saunders v. Vautier*, 4 Beav. 115; and *Wharton v. Masterman*, [1895] A. C. 186.

The bequests of the residuary estate are in a different position. The testator directed that his residuary estate was to be divided in 15 years from the date of his will amongst his children so that each son should receive \$9 for every \$3 each daughter should receive; those children who have then attained 27 to receive their shares at once upon the expiration of the 15 years; those who have not attained that age to receive interest only after attaining the age of 21 until they attain 27, and then to receive the principal. But this, as well as the gift of the legacies, was subject to a power given to the widow in certain events to direct the trustees to pay to any child only the income of any portion remaining unpaid of any legacy or bequest to each child, with a gift over in such case to the children of such child.

In my opinion, this provision renders the gifts to each child defeasible until they are actually payable according to the terms of the will. The applicants, not having attained the age at which the legacies and shares of the residue are payable, are not entitled to either.

Motion dismissed with costs.

SEPTEMBER 18TH, 1902.

C. A.

REX v. TREVANNE.

*Criminal Law—Evidence—Deposition Taken at Preliminary Inquiry—Admissibility at Trial—Incomplete Cross-examination—Waiver.*

Crown case reserved by the Judge of the County Court of Lambton. The prisoner was charged on the 25th Febru-