

THE
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(TO AND INCLUDING NOVEMBER 10TH, 1906).

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NOVEMBER 1ST, 1906.

DIVISIONAL COURT.

RE TOTTEN.

Will—Construction—Distribution of Estate — Shares—Income — Corpus—“Remaining Sons” — Survivorship—Period of Distribution.

Appeal by the children of Warren Totten, deceased, and of Norman Totten, deceased, from order of FALCONBRIDGE, C. J., 7 O. W. R. 886, declaring that upon the true construction of the will of Daniel Totten, deceased, the respondent Osborne Totten was entitled during his lifetime to the income derived from the principal of the estate of Daniel Totten, deceased, producing the income to which Henry Totten, deceased, was entitled upon his death, and that upon the death of Osborne Totten, the principal was to be divided share and share alike between the children of Osborne Totten who should attain the age of 21 years or die under that age leaving lawful issue, such issue to take the part or share their parent would have taken if living, and if more than one as tenants in common.

E. D. Armour, K.C., for the children of Norman Totten.

N. Sommerville, for the children of Warren Totten.

C. A. Moss, for Osborne Totten and his children.

M. C. Cameron, for official guardian, representing unborn children of Osborne Totten, and unborn great-grandchildren of testator.

J. B. Holden, for the Toronto General Trusts Corporation.