

Amelia, the daughter of the testator, survived him, and, after intermarrying with the defendant, Robert Fulton, herself died, leaving as her only issue two sons, the fruit of the marriage, one of whom, Robert Henry Fulton, subsequently died on the 24th of February, 1849, aged eighteen years and five months, unmarried and without issue, leaving surviving him his brother, Henry K. Fulton, one of the complainants, and the defendant, his father.

The bill in this case was filed by the trustee Keerl and the surviving son of the testator's daughter Amelia, for the purpose of obtaining the aid and direction of the court with respect to the estate; and also with regard to the estate, real, personal and mixed, which, upon the death of the testator's wife, was limited over to his seven children, including the daughter, in equal proportions.

The case being submitted upon an agreement in writing, without argument, the Chancellor, after stating the facts, said:]

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THE CHANCELLOR:

I think there can be no doubt, that the deceased son of the testator's daughter had a vested interest in the estate devised and bequeathed to his mother for life, and that upon her death, and when the proper time shall have arrived—that is, when the son, if living, would have attained the age of twenty-one years—the trustees would have been bound to convey and assign to such son his proportion of said estate. The will gives the daughter an estate for life, and upon her death, if she should leave children, the limitation over to them is absolute, in equal proportions. When the daughter died, therefore, her two sons surviving her, the estate vested in them absolutely, the conveyance or assignment only being postponed until they should respectively attain the designated age, to wit, twenty-one. The *time* was only annexed to the *conveyance* or *transfer*, and not to the *gift* of the legacy; and hence it was not at all material, with reference to the rights of the representatives of the legatees, whether they attained the age of twenty-years or not.