

the "sixth part of the accruing interest" to be paid by the trustee on account of each of Samuel's children indicated no more than the mathematical division on the assumption that Samuel continued to have only four children, while the overall wish was that all the children of Samuel should share equally if they survived their parents. On this interpretation, Caroline is a beneficiary of the trust as to five-sixths of the income, and as to that the trust will not terminate until her decease. Meanwhile, since Hiram F. Brown died without issue, the five-sixths of the income is to be divided into four parts, one for Caroline, one for the descendants of Mary D. O'Brien, one for those of Marcus M. Brown, and one for those of Anna L. Churchill.

The questions propounded concerning the distribution of the corpus of the trust fund at the death of Caroline W. Johnson, namely the right, if any, of her adopted son and the proportions in which the distributees will take, are questions that have not yet arisen and as to which the trustee stands in no need of present advice. When they do arise, they will have to be answered in the first instance by a decree of distribution in the Probate Court. *Podrasnik v. Company*, 92 N. H. 65.

*Case discharged.*

All concurred.

Hillsborough, }  
June 28, 1945. } No. 3515.

ELIZABETH E. HARTNETT v. CORNELIUS J. HARTNETT.

*J. Morton Rosenblum* (by brief and orally), for the plaintiff.

*McLane, Davis & Carleton* and *Robert P. Bingham* (*Mr. Bingham* orally), for the defendant.

JOHNSTON, J. The position of the plaintiff is that the court had no jurisdiction to give temporary use of the car to the husband. Consent of course does not confer jurisdiction of a subject matter. *Mansfield v. Holton*, 74 N. H. 417.

It is also true that the power of the court to grant divorces and legal separations is entirely statutory. *Jones v. Jones*, 91 N. H. 377. See, also, *Baker v. Baker*, 90 N. H. 307, and *Salta v. Salta*, 80 N. H. 218. The statutes make no provision for a temporary allowance to be paid to the husband by the wife for his support. R. L., c. 339, ss. 14, 25. Accordingly, none can be ordered.

However, the petition alleges that the plaintiff purchased the Chrysler sedan with her personal earnings. While no answer has been filed by the defendant, it is clear from the record that on the basis of turning in the first of the three cars owned between the parties, which first car was his property, and the custom of giving his weekly earnings to his wife, he claims to be a part owner of said car at least. He joins issue with the allegations of the plaintiff concerning ownership of it.

[REDACTED]

“No jurisdiction can be more ample and unqualified than that of . . . [the Superior Court] in cases of injunction.” *Wason v. Sanborn*, 45 N. H. 169, 171, a petition for a temporary injunction. This case is cited on this point in *Hatch v. Hillsgrove*, 83 N. H. 91, 93. The Statute expressing this authority is as follows: “The court . . . may grant writs of injunction whenever the same are necessary to prevent fraud or injustice.” R. L., c. 371, s. 2. In an action of divorce or legal separation, where each of the spouses on the ground of entire or partial, legal or equitable ownership claims the right to the use of an automobile formerly driven in the family, the Superior Court has jurisdiction to determine its use by injunction during the pendency of the suit according to the respective needs of the parties.

*Exception overruled.*

MARBLE, C. J., was absent: the others concurred.

[REDACTED]

Grafton, }  
June 28, 1945. } No. 3530.

STATE *v.* ALLEN FREEMAN GEORGE.

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