Mo. 162, 18 S. W. 1145; overruled in *Gates v. Seibert* (1900) 157 Mo. 254, 57 S. W. 1065. The question whether the interests of the beneficiaries of a trust are sufficiently vested or not is determined by the same rules that apply in considering the rights of holders or prospective holders of legal titles. Gray, *op. cit.* sec. 413. An indestructible trust which may last more than a life or lives in being and twenty-one years after the entire equitable interest under it has become indefeasibly vested is void. *Fitchie v. Brown* (1906) 211 U. S. 321; *Colonial Trust Co. v. Brown* (1926) 105 Conn. 261, 135 Atl. 555. The better view seems to be that this result is based upon a special rule formed by analogy to the rule against perpetuities rather than upon the rule itself. Gray, *op. cit.* sec. 1211; KALES, FUTURE INTERESTS sec. 658; and *cf. Armstrong v. Barber* (1909) 239 Ill. 389, 88 N. E. 246. The practical result of these cases is to throw into sharp relief the great legal and practical differences between an indefeasibly vested estate and an estate which is vested subject to being divested, although both of these satisfy the rule, while the latter's closer analogy, an estate whose vesting depends upon an indefinite contingency, does not.

There are two special types of trusts which frequently come into conflict with the rule against perpetuities. The spendthrift trust is obviously a violation of the rule if it is to last for more than a life in being and twenty-one years, because the beneficiary does not secure a vested interest until the principal or income is actually paid over to him. *Loud v. St. Louis Union Trust Co.* (1922) 298 Mo. 148, 249 S. W. 629. A trust which provides that all or part of the income shall be allowed to accumulate for a certain period is not rendered void by the length of this period alone. *Thellusson v. Woodford* (1805) 11 Vesey 112, 32 Eng. Repr. 1030; *Goldtree v. Thompson* (1889) 79 Cal. 613, 22 Pac. 50; and *cf. Lane v. Garrison* (1922) 293 Mo. 530, 239 S. W. 813. Influenced by the undesirability of starving the present generation to accumulate unbounded luxuries for the future, England early passed a statute narrowly limiting this practice. (1800) 39 and 40 George III, c. 98. This has been copied in several American states, with varying modifications, but the Missouri legislature has never seen fit to adopt such a measure, perhaps because no case has as yet arisen in this state bringing the possible evils into striking prominence. R. S. Ill. (Cahill, 1931) ch. 3 sec. 145; C. S. N. Y. (Cahill, 1930) ch. 42 sec. 16; Vierling, *The Rule Against Perpetuities Applied to Trusts* (1924) 9 ST. LOUIS L. REV. 286. G. W. S., '33.

POLICE POWER—EXERCISE FOR AESTHETIC PURPOSE—ERECTION OF SCREEN BY STATE TO HIDE SIGN FROM MOTORISTS' VIEW.—The state highway department erected a screen in front of plaintiff's property so that motorists would not see a sign on plaintiff's property. *Held*, such action could be enjoined as a deprivation of property rights. The court, in its opinion, observed: "The original motive in erecting the screen was purely aesthetic. . . It is contended that under the police power of the state this screen may be erected. Courts have gone far in upholding the police power,

but never to the extent demanded here." *Perlmutter v. Greene* (1931) 249 N. Y. S. 495.

The United States Supreme Court has repeatedly held, and the great majority of state courts have agreed, that the police power of the states does not extend to the protection or preservation of aesthetic sensibilities. *Commonwealth v. Boston Advertising Co.* (1907) 193 Mass. 364, 79 N. E. 745; *Byrne v. Maryland Realty Co.* (Md. 1916) 98 Atl. 547; *Welch v. Swasey* (1908) 214 U. S. 91. Yet the erection of billboards in residential districts and the otherwise injudicious distribution of signs which ruined the appearance of beautiful boulevards and became an eyesore to motorists, gave the courts an urgent problem to solve. When the case of *Thos. Cusack Co. v. Chicago* (1916) 242 U. S. 526, arose, counsel for the advertising company called the Court's attention to the fact that the real purpose of the ordinance in that case, which prohibited the construction of billboards over twelve feet square without the consent of a certain portion of the property owners, was to preserve the beauty of residential neighborhoods. Faced with this strong argument and yet knowing of the great need for billboard regulation, the Supreme Court found a way out by saying that possibly the ordinance was passed actually to protect public morals, because billboards might be hiding places for criminals, and thus be subversive of public morality. The supreme courts of nearly all the states have justified the regulation of outdoor advertising on similar grounds, not yet espousing aesthetic basis. *St. Louis Gunning Advertising Co. v. St. Louis* (1911) 235 Mo. 99, 137 S. W. 929; *Horton v. Old Colony Bill Posting Co.* (1914) 36 R. I. 507, 90 Atl. 822; *Passaic v. Patterson Bill-Posting Adv. & Sign Ptg. Co.* (1904) 71 N. J. Law 75, 58 Atl. 343. In view of the present attitude of the United States Supreme Court that the police power of the states does not extend to the protection of the aesthetic sense, the principal case was certainly decided properly; if a state cannot prevent a man from erecting an unsightly billboard on his property for aesthetic reasons, then it certainly cannot do it indirectly by putting a screen in front of his sign.

If the police power can be exercised in the public interest to protect the sense of smell against smoke or offensive odors, *Northwestern Laundry Co. v. Des Moines* (1915) 239 U. S. 486; *Slaughter-House Cases* (1873) 16 Wall. 36, and to protect the sense of hearing against loud noises, *New Orleans v. Fargot* (1906) 116 La. 369, 40 So. 735, it becomes pertinent to inquire why it cannot be exercised to protect the sense of sight? *State ex rel. Civello v. New Orleans* (1923) 154 La. 271, *l. c.* 283, 97 So. 440, *l. c.* 444. Zoning laws are generally upheld at present on the ground of public health and welfare. But undoubtedly the aesthetic purpose plays a strong part in their passage. A possible factor in the Supreme Court's refusal to recognize that the police power may be exercised in the preservation and protection of the communal aesthetic sensibilities is that it is doubtful that a sufficiently definite criterion of aesthetic desirability may be developed. Yet it may not be asserted that the denial of the right of public regulation is so fixed that an intensification of the evil and a growing public sentiment in regard to it may not ultimately reflect themselves in the judicial reaction.

J. D. F., '32.