half the amount of the appropriation, and the defendant agreed to accept it. Accordingly a sum was granted by Parliament for this purpose, and, by an order-in-council, authority was granted to pay it to the defendant.

Held, that on the date of the order-in-council there existed a debt due by the Crown to the defendant, arising out of contract, and recoverable by petition of right.

Held, also, that this sum could be made available for satisfaction of a judgment recovered by the plaintiff against the defendant.

Willcock v. *Terrell*, 3 Ex. D. 323, and *Manning* v. *Mullins* (1898), 2 Ir. R. 34, followed.

The fact that the Crown is the debtor does not stand in the way of the court going as far as it can go, without directing or assuming to direct what shall be done by the Crown, towards making such an asset of a judgment debtor available to satisfy the claim of his judgment creditor.

Upon the plaintiff undertaking that the fund, if and when it should come to the hands of the receiver, should be applied as if it had come to the hands of the sheriff under the Creditors' Relief Act, an order was made restraining the defendant from receiving the fund, authorizing a receiver to receive it, and providing that his receipt should be a sufficient discharge to the department or officer making payment.

J. H. Moss, for plaintiff. *Shepley*, Q.C., for defendant. *J. A. Paterson*, for the Crown.

Meredith, J.] TOLTON *v.* MACGREGOR. [Sept. 24.

Payment out of court—Proof of age of applicant.

By decree of the 18th September, 1878, in a partition action, it was directed that the share of an infant defendant, J. F. M., should remain in court, and the interest thereon should be paid to his father, a co-defendant, as tenant by the curtesy.

On the 24th September, 1900, J. F. M. and his father moved for payment out of J. F. M.'s share, upon the father's affidavit identifying the infant defendant as his son, J. F. M., and stating that J. F. M. was of age, having reached the age of twenty-one years on the 5th February, 1899, and that the father consented to payment out and released all his rights in the fund.

Held, that the proof of the age was not sufficient, the father not having stated his reasons for believing that the son was of age, or referred to any family or other records in support of his statement, and the fact that the son was named as a party in the decree of 18th September, 1878, was not conclusive proof that he was now of age.

H. W. Mickle, for applicants.