

ance, and comfort." And see *Kilvington v. Gray*, 10 Sim. 293.

Here, a case of sickness being made, I think the trust which was created for that specific purpose arose, and the executors may still exercise their judgment and discretion as to the amount necessary to be advanced to answer what was required for support in the sickness, or, if they are not now disposed to exercise this power, the Court may undertake it.

This does not give the creditors of Grier Evans any direct claim against the executors or the fund. In strictness the claim should be maintained by the personal representative of Grier Evans, and unless the parties can now agree (all being adults) it may be necessary to appoint a personal representative.

If the executors are prepared to declare what sum should be advanced, and the other parties are willing to dispense with a personal representative, and to agree to a proper distribution of the sum amongst the claimants against Grier Evans's estate, the clerk in Chambers may make the necessary inquiries as to the claimants, and apportion the amount payable to each, and the executors may hold the residue to be dealt with as provided by the will.

In that event they and the parties interested in the residue may receive their costs out of the fund.

I do not think I can stay the action brought by Alexander Wright in the County Court of Grey, but if he chooses to discontinue it, and to come in and take the benefit or the order in this proceeding, he may have his costs of this proceeding. On the subject of costs I observe that there is not only an originating motion, but a petition by the executors, which seems entirely unnecessary.

At present I dispose of the matter by declaring that the executors hold the sum of \$300 in question subject to the right of the personal representative of Grier Evans to receive thereout such sum as may be deemed necessary as an advance for the support of Grier Evans in his sickness, and, subject thereto and to the payment of his funeral and other necessary expenses, for the persons named in the will as entitled in remainder.

In case of any question arising on settling the order, the matter may be spoken to before me at any time.

Mark & A. E. Scanlon, Bradford, solicitors for executors.

McPherson, Clark, Campbell, & Jarvis, Toronto, solicitors for beneficiaries.

H. G. Tucker, Owen Sound, solicitor for Alexander Wright.