

as might be necessary for his support and maintenance from the first day of July, 1910, until he arrived at the age of 25 years.

The application came on for hearing before Falconbridge, C.J., on the 5th October, 1911, and an order was made that out of the income of the estate in the hands of the executors there should be paid to the applicant \$600 forthwith and \$100 per month until the 17th February, 1912, for his support and maintenance. On this latter day this maintenance was to cease on his then attaining the age of 25 years.

In the year 1912 the executors of the estate under Consolidated Rule 938 made an application for an order "declaring the construction and interpretation of certain clauses of the will." The motion was heard by Clute, J., and on the 28th February, 1912, he gave judgment, from which I quote in part as follows:—

"I am also of opinion that the children, Margaret and William George are entitled to what is a fair allowance for their maintenance, whether that maintenance, support and education be upon the premises or not. In case the parties differ as to what a reasonable sum would be, the Surrogate Court may adjust that matter in settling the accounts of the executors."

An appeal was taken from said judgment to a Divisional Court and on the 22nd April, 1912, a judgment was delivered by it varying in some respects the judgment of Clute, J., but substantially, in paragraph 4 of its judgment, repeating and affirming that part thereof just quoted as to maintenance.

The executors petitioned the Surrogate Judge of the county of Peel to audit, take and pass their accounts and fix their compensation. A hearing followed before the Surrogate Judge in which evidence was taken at some considerable length with respect to the question of maintenance. On the 3rd July, 1912, the said Surrogate Judge made an order which, besides dealing with the question of the audit and the fixing of the compensation of the executors, contained the following clauses:—

"And I find and declare that William George Corkett applied to the Court for an allowance for maintenance and that on the 5th day of October, A.D. 1911, an order was made by the Chief Justice of the King's Bench, allowing