

(1887), c. 110 as ss. 38 to 42, and in R.S.O. (1897), c. 12^e (The Trustee Act) as ss. 40 to 44, of which 40 and 43 were as follows:—

“40. Any trustee under a deed, settlement or will, any executor or administrator, any guardian appointed by any court, and any testamentary guardian, or any other trustee, howsoever the trust is created, shall be entitled to such fair and reasonable allowance for his care, pains and trouble, and his time expended in and about the trust estate, as may be allowed by the High Court or judge, or by any master or referee thereof, to whom the matter may be referred.

“43. The judge of any Surrogate Court may allow to the executor or trustee or administrator acting under a will or letters of administration, a fair and reasonable allowance for his care, pains and trouble, and his time expended in or about the executorship, trusteeship or administration of the estate and effects vested in him under the will or letters of administration, and in administering, disposing of, and arranging and settling the same, and generally in arranging and settling the affairs of the estate, and may make an order or orders from time to time therefor, and the same shall be allowed to an executor, trustee or administrator in passing his accounts.”

The original of the enactment which enables executors and others to pass their accounts in the Surrogate Court was 59 Vict. c. 20, s. 5, incorporated into the revision of 1897 as s. 72 of c. 59, thereof (The Surrogate Courts Act), which, as subsequently amended by 2 Edw. VII. c. 12, s. 11 and 5 Edw. VII. c. 14, s. 1, is now s. 71 of 10 Edw. VII. c. 31 (The Surrogate Courts Act), since amended by 1 Geo. V., c. 17, s. 71, and is, in part, as follows:—

“71—(1) Where an executor, administrator, trustee under a will of which he is an executor or a guardian, has filed in the proper Surrogate Court an account of his dealings with the estate and the judge has approved thereof in whole or in part, if he is subsequently required to pass his accounts in the High Court, such approval, except so far as mistake or fraud is shewn,