

Application under Imperial Act 10 & 11 Vict. ch. 96, R. S. O. 1897 ch. 51, and Rules 938 and 1103, by executors and trustees under the will of Margaret Evans, deceased, for a direction as to the proper disposition of a fund of \$300 mentioned in the will.

The clause in the will disposing of the fund is as follows:—

“I give and bequeath to my sons Grier Evans and William James Evans the sum of \$300 each, but I direct my said executors to invest the same on good security during the lifetime of my said sons or the survivor of them, and to pay to each of them the one-half of the interest arising from such investment, and in case of sickness of my said sons or either of them, I desire my said executors to advance such portion as they may think necessary of the principal money to support my said sons, or such of them as may be sick, and in case of the death of one of my said sons his legacy, after paying his funeral and other necessary expenses, to be divided equally amongst my surviving children, with the exception of my surviving son's share, which I direct my executors to invest and pay the interest yearly during his lifetime.”

Grier Evans died, intestate, on June 23rd, 1901, leaving surviving two sisters and one brother, all over 21 years of age. Action was brought on November 11th, 1901, and is pending in the County Court of Grey, by one Alexander Wright against the applicants, in respect of a claim of \$200 for board and lodging furnished to Grier Evans in his lifetime, and the plaintiff in that action asked for a declaration that the sum of \$300 in the executors' hands is liable for the payment of his claim. Grier Evans was indebted to other persons. The executors asked for construction of the will, an order staying proceedings in the County Court action, and other relief.

J. Bicknell, for executors.

R. U. McPherson, for brothers and sisters of Grier Evans, deceased.

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

Moss, J.A.—The testatrix did not very clearly express her intentions with regard to the exact nature of the interest to be taken by her two sons Grier Evans and William James Evans in the moneys bequeathed to them, and it is somewhat difficult to get at her precise meaning. Mr. Tucker conceded, and I think rightly, that it is not a case