

MACMAHON, J.

NOVEMBER 1ST, 1907.

WEEKLY COURT.

RE McRAE.

Will—Construction—Life Estate — Power of Appointment to Children in Fee—Debts Due by Devisee of Life Estate Charged against Property Devised — Charge against Life Estate only.

Motion by David Haigh McRae and Norman J. Fraser, executors of the will of William Ross McRae, under Con. Rule 938 and sec. 91 of the Judicature Act, for the determination of the question arising in the administration of the estate of William Ross McRae, and affecting the rights and interests of the devisees under his will, namely: Is the indebtedness of William Duncan McRae, charged against him in the testator's books at his death, by the provision of the testator's will charged against the fee simple of the property devised for life to William Duncan McRae, being the centre portion of lot 1 fronting 22 feet on Princess street, in the city of Kingston, or only charged against the life estate of William Duncan McRae in that property?

J. L. Whiting, K.C., for the executors.

John McIntyre, K.C., for Ernest J. B. McRae and Jessie R. McRae, two of the children of R. W. R. McRae.

J. M. Farrell, Kingston, for W. D. McRae.

W. Mundell, Kingston, for the official guardian.

MACMAHON, J.:—The testator died on 19th April, 1901, having made his last will dated 31st January, 1885.

By clause 4 the testator devised the centre portion of lot number 1 fronting 22 feet on Princess street, in the city of Kingston, measured in an easterly direction from the easterly limit of said west part, and comprising the centre house on said lot, known as "the Pantry store," to his son William Duncan McRae for his life.

The testator devised to several of his sons and daughters various properties in the city of Kingston for the respective terms of their natural lives.

And by the 11th clause of his will the testator directed that "from and after the death of any of my said sons and daughters, I devise the land hereinbefore devised for life to