

The income from the estate of the lunatic, outside of the money in Court, has heretofore more than met the requirements for maintenance, and the money in Court is an accumulation of surplus income. A trust company has been appointed committee.

Having regard to the fact that it is almost a certainty that Mrs. Carmichael will, upon the death of her mother, be entitled to half the moneys in Court, and to the fact that the mother's recovery appears to be impossible, and to the discretion given to the Court to use the property of a lunatic for the maintenance of the family (R.S.O. 1914 ch. 68, sec. 12), I think I am justified in making the order sought and directing payment out of Court forthwith of \$500 and of the further sum of \$100 each three months for the ensuing year; this to be a charge upon Catherine Carmichael's share.

Since the above was written, a child of the first marriage of the plaintiff's husband, from whose estate this money was derived, has intervened—intending to move against the judgment. It has now been arranged that this order may stand without prejudice to any right she may have to attack the judgment. This should be stated on the face of the order.

MIDDLETON, J., IN CHAMBERS

SEPTEMBER 26TH, 1914.

CLARK v. INTERNATIONAL MAUSOLEUM CO. LIMITED.

Practice—Specially Endorsed Writ of Summons—Affidavit Filed by Defendant with Appearance—Right of Cross-examination without Launching Motion for Judgment—Rule 57.

Appeal by the defendant company from an order of the Master in Chambers refusing to set aside as irregular an appointment for the cross-examination of the defendant company's officer on his affidavit filed with the appearance to a specially endorsed writ of summons.

Grayson Smith, for the defendant company.

W. G. Thurston, K.C., for the plaintiff.

MIDDLETON, J.:—The objection taken to the cross-examination is that the plaintiff has not launched any motion for judgment. This objection entirely misconceives the purpose of Rule 57. The