

pay to her a sum to recoup her for medical and kindred expenses. I do not think that I can make any such order. She is married, and, *prima facie*, her husband ought to bear any such expenses. But, apart from that, the payments for medical and kindred expenses are payments which the executors "deem proper." The executors in this case expressly state that they do not deem the payment now sought, to be proper. They are the final authority.

Save as expressly directed by the orders of the Court, my view is that the payments for medical expenses must be borne by the \$35,000; advances for educational purposes must be borne by the shares of each child; and that the orders of the Court dealing with specific sums must be given effect to in accordance with their terms.

Where no specific direction has been given with reference to the costs of different applications, costs should be charged in the same way as the sums dealt with by the order.

I think that the foregoing covers all the different matters discussed, and that there ought to be no difficulty in making out accounts upon the footing indicated.

Costs of all parties to this application should be allowed out of the \$35,000 fund.

DIVISIONAL COURT.

JUNE 26TH, 1912.

RE SANDERSON v. SAVILLE.

3 O. W. N. 1560; O. L. R.

Mines and Minerals—Prospecting and Discovery by Miner on Crown Lands after Expiry of License—Renewal after Discovery and Staking—Effect of Ontario Mining Act, ss. 22 (1), 84, 85 (1) (a), 176 (1), 181 (1)—Criminal Offence.

DIVISIONAL COURT, *held*, that the holder of a miner's license can acquire no rights by a discovery and a staking after the expiry of the term covered by the license and before its renewal, prospecting without a subsisting license being a criminal offence.

Cleaver v. Mutual Reserve F. L. Assn., [1892] 1 Q. B. 147, and *McKinnon v. Lundy*, 24 O. R. 132; 21 A. R. 560, *sub nom.*

Lundy v. Lundy, 24 S. C. R. 650, *discussed*.

Judgment of Mining Commissioner for Ont., affirmed, with costs.

An appeal by Sanderson from a judgment of the Mining Commissioner, reversing a decision of a Mining Recorder,