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HON. MR. JUSTICE RIDDELL.

JUNE 20TH, 1912.

RE GORDON.

3 O. W. N. 1458.

Will—Construction — Application for Advice by Executor—Under Trustee Act and Con. Rule 1269 (938) — Determination of Validity of Lease made by Life Tenant.

Motion by executor of the late Isaac Gordon, Sr., for advice of Court under Trustee Act and C. R. 1269 (938). Isaac Gordon, Sr., by his will, had devised certain lands to a certain son for life, and in case of his death without issue, to others. The tenant for life had leased the lands for a term of years and had died prior to the expiration of the lease.

The opinion of the Court was asked as to (1) the course to be pursued by the executor with respect to the lease, and, (2) as to the validity of the lease.

RIDDELL, J., held, that the questions asked were not such as were authorised by the Trustee Act nor the Rules, and refused to entertain the application.

Suffolk v. Lawrence, 32 W. R. 899, referred to.

Motion by the executors of the will of the late Isaac Gordon, Sr., for the opinion, advice, or direction of the Court, under sec. 65 of the Trustee Act and Con. Rule 1269 (938).

A. A. Craig, for the executors' motion.

C. W. Plaxton, for tenants under a lease by Henry Gordon, contra.

HON. MR. JUSTICE RIDDELL:—Isaac Gordon, Sr., devised certain lands to his son Henry "for himself during his natural life, subject to the payment of" certain legacies, "but in case of my son Henry Gordon's death without issue or without leaving any child or children then it is my wish that the real estate be sold and the proceeds divided equally between my surviving sons and daughters share and share alike . . ." Henry in 1909, made a lease of the land to C. and A. for a term of five years; and died without issue