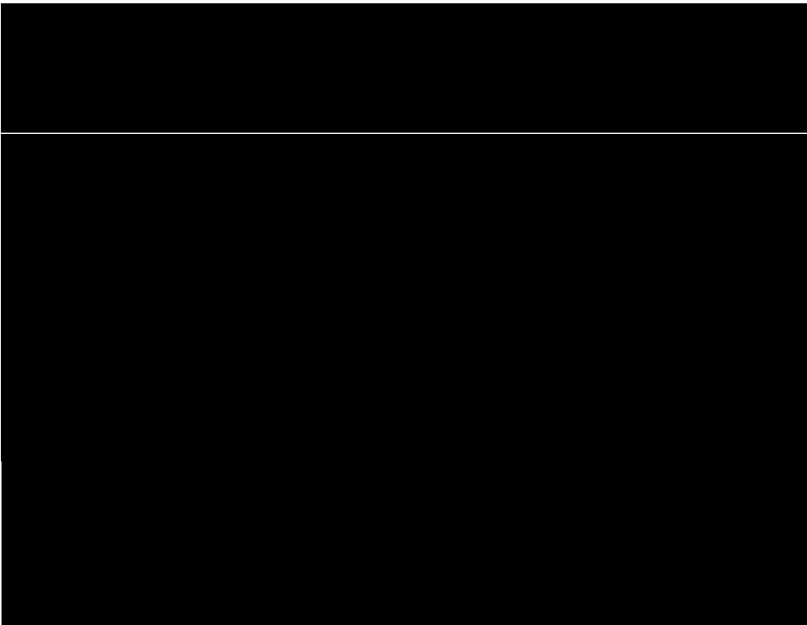


Strafford,
No. 4957.

ANTOINETTE M. DUPERRE v. ISADORE N. DUPERRE.

Argued March 6, 1962.

Decided April 3, 1962.



Fisher, Parsons & Moran (Mr. Harold D. Moran orally), for the libelant.

Cooper, Hall & Cooper (Mr. Fred W. Hall orally), for the libelee.

DUNCAN, J. "Unless the decree . . . expressly provides for the cessation of payments . . . its force continues until it is modified The libelee may not disobey the order of the decree. His right is to obtain judicial relief from further payments, and not to cease payments without the relief." *Eaton v. Eaton*, 90 N. H. 4, 8. See *Fowler v. Fowler*, 97 N. H. 216, 218; *Benjamin v. Benjamin*, 99 N. H. 117.

In the case before us the order of September 13, 1957 continued in force on April 19, 1961 when the master's report was approved by the Court and the arrears aggregated \$505. Nothing in our law would have prevented termination of the libelee's obligation for support at some time between the filing of his motion and the date of approval of the master's report by the Court if justice so required. However "an award as well as a modification will be set aside only if upon the evidence it clearly appears there has been an abuse of judicial discretion." *Fortuna v. Fortuna*, 103 N. H. 547, 548.

The record in this case falls short of meeting this requirement. The minor child of the parties will not become of age until July 1962. While the finding of the master shows that he graduated from high school in 1960, there was no finding that he had become self-supporting. The evidence in the case is not before us. It may have appeared that "the libelee [had] not been diligent in instituting and prosecuting his petition" (*Eaton v. Eaton, supra*, 9) or that the circumstances of the parties did not warrant vacation of the order until all sums due at the time of hearing should be paid. See *Fortuna v. Fortuna, supra*, 548. The record discloses no reason for this court to interfere with the Trial Court's exercise of its discretion.

Exceptions overruled.

All concurred.