

In view of the fact that the set-off to which I have given effect was not pleaded, and that to allow it an amendment is made without any request of defendants at this stage of the case, there will be no order as to the costs of this action.

Should defendants not amend as indicated within one month, there must be judgment for plaintiffs with costs.

ANGLIN, J.

DECEMBER 13TH, 1904.

CHAMBERS.

GOODWIN v. GRAVES.

Libel—Pleading—Privilege—Justification—Denial of Innuendo—Motion to Strike out Defences.

Appeal by plaintiff from order of Master in Chambers, ante 449, dismissing plaintiff's motion to strike out certain paragraphs of the defence in an action for libel.

I. F. Hellmuth, K.C., for plaintiff.

S. B. Woods, for defendant.

ANGLIN, J., allowed the appeal in part and ordered that the 4th paragraph of the defence be struck out, with leave to defendant to amend. Costs of motion and appeal to plaintiff in the cause.

ANGLIN, J.

DECEMBER 14TH, 1904.

CHAMBERS.

RE BRAND.

*Will—Construction—Devise—Estate Tail—"Heirs of Body"
"Heirs and Assigns"—"In Fee Simple."*

Motion by executors for order declaring construction of will. Testator devised his real estate to his executors, their heirs and assigns, to have and to hold the same "to the use of Nancy G. Skinner . . . for and during the period of her natural life, and at her decease to the use of the heirs of her body begotten, and their heirs and assigns, in fee simple forever;" on her death without issue a gift over in fee.

R. T. Harding, Stratford, for executors and for Nancy G. Skinner and three adult children.

F. W. Harcourt, for infants.