

(1829), pp. 91-94, was cited as shewing what is such an intermeddling as will preclude an executor from afterwards renouncing. To the same effect, it was contended, is the judgment of North, J., in *In re Stevens*, [1897] 1 Ch. 422, affirmed [1898] 1 Ch. 162 (see p. 171).

It will be for the plaintiffs to consider whether they should not apply to have the grant to the Toronto General Trusts Corporation revoked, and the defendant required to take probate, or else have the corporation added as defendants to this action. It is not shewn whether the acts of the defendant were known to the Judge of the Surrogate Court, and none of the papers leading to the grant are in evidence on this motion.

If one of these courses is not taken, it will be useful, if not necessary, for the plaintiffs to consider whether a recovery in this action in its present form will be of any practical benefit to the plaintiffs. . . .

It seems right to allow the action to proceed if plaintiffs so desire, giving defendant leave to enter a conditional appearance, so as to allow him to plead "ne unques executor," and have the whole matter decided by a Court which shall have heard all the evidence to be given on both sides.

If consideration can be proved, might not the defendant be liable personally, even if the estate is not held to be bound?

The defendant should appear forthwith. Costs will be in the cause.

CARTWRIGHT, MASTER.

NOVEMBER 13TH, 1907.

CHAMBERS.

MADGETT v. WHITE.

Parties—Addition of Defendant—Agent—Authority—Costs.

Motion by plaintiff for an order adding one Moore as a party defendant.

T. N. Phelan, for plaintiff.

Grayson Smith, for defendants.

THE MASTER:—The case is ready for trial. . . Moore acted as agent for defendants in the matter out of which this action arose. . . The statement of claim alleges that