sent plaintiff says there is none, as the letters probate should be revoked and all previous wills set aside.

The other claim is not one that she herself can make in any case. It must be made by the personal representative of the estate, as in him alone would the right of such an action be vested. See Fairfield v. Ross, 4 O. L. R. 534, 1 O. W. R. 631. At present it is, therefore, doubly objectionable.

If, when there is a duly qualified representative or representatives, they refuse to take action in regard to the notes alleged to have been fraudulently obtained from the deceased, the plaintiff will not be without remedy, as she could proceed against the executors or administrators for a devastavit, or perhaps they would assign the claim to her and allow her to prosecute it if she thought it worth while to do so. It is not necessary, in the view I have taken, to consider whether or not the statement of claim in the above respects is an undue extension of the indorsement, nor the effect of one of the defendants not having appeared, and therefore, not having been served with the statement of claim. I am quite clear that for the foregoing reasons the paragraphs objected to should be struck out and the prayer for relief amended accordingly.

The costs of these motions will be to the defendants in the cause. If the plaintiff so prefers, she may amend the statement of claim otherwise as she may be advised; as, e.g., by setting up her claim to an equal share of the estate under the alleged contract with the deceased, and abandon the claims to have the letters probate set aside and the deceased declared to have died intestate.

CARTWRIGHT, MASTER. OCTOBER 16TH, 1907.

CHAMBERS.

PIPER v. ULREY.

Pleading—Statement of Claim—Embarrassment—Multifariousness—Irrelevancy—Pleading Evidence.

Motion by defendants Ulrey and Marskey to strike out certain paragraphs of the statement of claim as being embarrassing; and a similar motion by defendant Barber.