

MEREDITH, C.J.:—With all respect for Mr. Armour's opinion, I think it is plain that the objections of the purchaser are not entitled to prevail, and that a good title can be made. X

The scheme of the Devolution of Estates Act, R. S. O. 1897 ch. 127, is that land shall devolve upon the personal representative in the same way as personal property does, but that, at the expiration of 12 months from the death of the testator or intestate, unless a caution is in the meantime registered, the land shall vest in the person beneficially entitled to it. The caution remains in force for 12 months, but may be renewed from time to time. This period of one year was, by subsequent legislation, extended to 3 years. (See 2 Edw. VII. ch. 17.)

It was found that the object of the Act, which was, in part at least, to render unnecessary the expense of administering an estate in Court, was frequently frustrated owing to the neglect of the personal representative to register or to re-register the caution in time, and an amendment was, therefore, introduced by which it is provided that where the personal representative, by oversight or otherwise, has omitted to register or to re-register a caution in due time, he may, subject to the provisions which are contained in what is now sec. 14 of the revised statute, register it.

Section 14 provides that "where executors or administrators have, through oversight or otherwise, omitted to register a caution within 12 months after the death of the testator or intestate, as provided by the preceding section, or have omitted to re-register a caution as required by the said section, they may register the caution in either case notwithstanding the lapse of the 12 months respectively provided for the said purposes, provided they register therewith:—

- "1. The affidavit of verification therein mentioned;
- "2. A further affidavit stating that they find or believe that it is or may be necessary for them to sell the real estate of the testator or intestate (or the part thereof mentioned in the caution, as the case may be), under their powers and in fulfilment of their duties in that behalf;
- "3. The consent in writing of any adult devisees or heirs whose property or interest would be affected; and
- "4. An affidavit verifying such assent; or