

of the property in question; and for judgment for sale. The defendant Klein became entitled as one of the heirs of Shea to a one-half interest, and on 30th May, 1892, made the mortgage in question for \$1,500; the plaintiff advancing, as stated in it, \$1,000, and one Ferry, the other \$500. Ferry assigned his interest to defendant Stock.

W. A. Skeans, for plaintiff.

A. E. Knox, for defendant Klein.

W. J. Tremear, for defendant Stock, objected that the plaintiff should not have asked for relief as to his own claim of \$1,000 and interest and costs only, but have included the claim of defendant Stock; citing *Davenport v. James*, 7 Hare 252 n.

FERGUSON, J., allowed the name of James J. Mallon to be struck out, and directed the judgment to conform, as far as practicable, to the form of decree given in *Davenport v. James*, *supra*.

MARCH 5TH, 1902.

DIVISIONAL COURT.

MACNEE v. ROSE.

*Infant—Liability to Indemnity—Next Friend—Improvident Litigation—\$400 Incurred to Enforce Doubtful Claim of Infant to \$200 Worth of Goods—Ratification after Majority must be in Writing—R. S. O. ch. 146, sec. 6.*

Appeals by defendant Strawbridge, and plaintiff, from judgment of BOYD, C., dismissing claim of appellant Strawbridge against his co-defendant, J. H. Rose, for contribution and indemnity for and in respect of all costs, liabilities, and obligations incurred by the appellant in an action of *Rose v. Winters*, in which the appellant Strawbridge was the next friend of Rose, and co-plaintiff with him; and refusing to hold Rose liable to plaintiff for the costs incurred.

A. B. Aylesworth, K.C., for defendant Strawbridge.

J. B. Clarke, K.C., for plaintiff.

C. H. Widdifield, Picton, for defendant Rose.

The judgment of the Court (FALCONBRIDGE, C.J., STREET, J., BRITTON, J.), was delivered by—

STREET, J.:—By the will Rose's father left his farm to his widow (now Winters), during the minority of his son, the defendant Rose, and to Rose absolutely when he became of age, and also gave her all the chattels on the farm, directing her to leave on it chattels to the value of those she received.

Shortly before defendant Rose came of age, Mr. and Mrs. Winters, who lived on the farm, advertised a sale of chattels.