

now asked would be made; and it was a proper case for the exercise, at this stage, of the power given by the Rule.

The estate was a large one; the matter of expense, upon which counsel for the plaintiff laid stress, was relatively unimportant; and, besides that, the expense would not be greatly increased, if at all, by the making of the order.

There should be an order adding the unborn issue, and an order under Rule 77 appointing the Official Guardian to represent such issue. The costs of the present application should be costs in the cause.

LENNOX, J.

MAY 10TH, 1919.

KRUG v. TOWNSHIP OF ALBEMARLE.

*Municipal Corporations—Issue of Debenture to Raise Money for Public School Purposes—By-law—Rate of Interest Fixed at 5 per cent.—Money Secured by Debenture Payable in Annual Instalments of Principal and Interest Lumped together—Mistake in Computing Amount—Action by Personal Representatives of Purchaser of Debenture—Reformation of By-law and Debenture—Limitations Act.*

Action by the executors of Henry Krug, deceased, to whom a debenture was issued by the defendants in 1907, for the rectification of by-law No. 413 of the defendants by striking out the figures \$118.33 $\frac{1}{2}$ , wherever they occurred in the by-law, and substituting \$130.10, and otherwise amending the by-law so as to provide for payment of interest at 5 per cent. per annum upon money to be raised by the issue of a debenture or debentures under the by-law, and for rectification similarly of the debenture issued pursuant to the by-law, and for judgment for \$390.63 and interest.

The action was tried without a jury at Walkerton.

J. C. Moore, for the plaintiffs.

David Robertson, K.C., for the defendants.

LENNOX, J., in a written judgment, said that in September, 1907, the Trustees of School Section No. 2 in the Township of Albemarle, in pursuance of the Public Schools Act then in force—1 Edw. VII. ch. 39, sec. 74, as amended by 2 Edw. VII. ch. 40, sec. 6, and 6 Edw. VII. ch. 53, sec. 41—made a requisition on the township council for the issue of debentures for \$2,000 required for the purposes of a school-site and erection of a school-house, and by-law 413 was passed and one debenture issued for the purpose of raising the \$2,000. The by-law provided: (2) "That . . .