

it equivocal and causing a latent ambiguity which might be rebutted and removed by extrinsic evidence: *Miller v. Travers*, 8 Bing. 244, 247; *Kean v. Drope*, 35 U. C. R. 415. And as regards the alterations, the first, the correction of the description, would appear to be harmless, inasmuch as it was made with the consent of the parties to the instrument and to carry out their intention at the time of its execution: *Norton on Deeds* (1906), pp. 33, 34, and cases there cited; 2 Cyc. 156, 157; 2 Am. & Eng. Encyc. of Law, 2nd ed., p. 205. And plaintiff could derive no right under the second, even if in form creating a valid condition, because made without consent after the execution and delivery of the deed: *Norton on Deeds*, p. 31. And, even if the effect of the alterations, or one of them, was to destroy the covenants in the deed, yet they cannot operate to reconvey or take away the estate which had once passed by it or to prevent it from being used to shew its operation in its unaltered condition: *Hagar v. O'Neill*, 20 A. R. 198, 216, and cases there cited.

There is no question of the deed having been procured by fraud or fraudulent representations. The defendants are in possession; the plaintiff was bound to prove a better title; and this he has entirely failed to do. The appeal should therefore be allowed and the action dismissed with costs throughout.

MEREDITH, J.A., gave reasons in writing for the same conclusion.

MOSS, C.J.O., GARROW and MACLAREN, J.J.A., concurred.

MEREDITH, C.J.

MAY 13TH, 1907.

WEEKLY COURT.

RE MOYER.

*Will—Construction—Pecuniary Legacies—Specific Bequests
—Identification of Moneys—Recourse to General Personal
Estate.*

Motion under Rule 938 for order declaring the construction of the will of Joseph H. Moyer, dated 14th February, 1898.