

C.P. 134, was not a case of partnership at all. As far as the report shews, the defendant who instructed the attorney had no authority, implied or otherwise, to so instruct for the defendant who had not been served. The same remark applies to *Bayley v. Buckland*, 1 Ex. 1. *Koissier v. Westbrook*, 24 C.P. 91, was an action of ejectment against three defendants. There was no partnership or other connection between these defendants. They may have had distinct and even conflicting defences. Unless the same rule applies to a cognovit and an appearance, none of these cases seem to me to have any bearing upon the question. On page 272 of Lindley, almost immediately following the citation I have given, he says one partner cannot give a cognovit; thus drawing a distinction between the authority of one partner to enter an appearance and to give a cognovit. Surely there is a difference in principle between a cognovit, where one partner confesses judgment against all the partners, and an appearance, where he takes the first step towards defending the action on behalf of all the partners.

In *Mason v. Cooper* it was admitted that the service on the one partner was sufficient to maintain a judgment by default against the firm. It certainly is a peculiar result if a valid judgment can be obtained against a firm because the partner served neglects to enter an appearance, but the judgment can be set aside if the same partner enters an appearance to the action. Since *Mason v. Cooper* was decided, the same question came before the Court of Appeal in England in *Tomlinson v. Broadsmith* (1896) 1 Q.B. 386, and it was held that a managing partner had implied authority to direct a solicitor to enter an appearance in an action brought against the partnership. Rigby, L.J. went so far as to say that he did not think it would have made any difference if the other partner had objected, and so informed the solicitor. Lord Esher, M.R., said: "*Goodman v. DeBeauvoir*, 12 Jur. 989, 1037 is a direct and clear authority that one of a number of persons in the position of partners has authority to enter an appearance in an action against the partners." *Goodman v. DeBeauvoir*, does not appear to have been brought to the attention of the court in *Mason v. Cooper*.

One trustee or executor, unless authorized to do so, cannot pledge to a solicitor the credit of his co-trustee or co-executor, although the latter may by his acts or conduct ratify such appointment: *Cordery on Solicitors*, 65. But in *Simpson v. Gutteridge*, 1 Madd. 609, it was stated that one of several executors has power to