

was void for non-compliance with the provisions of the Bills of Sale and Chattel Mortgage Act. The directors of the defendant company were made defendants, the allegation against them being that they "wrongfully dealt with" the bonds of the issue secured by the mortgage in question and of other issues, or with the proceeds of them; and the plaintiffs claimed an account and an order that the directors repay to the company all moneys "wrongfully diverted." It was to this allegation and this claim against the directors that the motion related.

No case was cited that seemed to lend any support to the contention that a creditor of the company had any status to maintain such a claim—a claim that could be asserted only by or on behalf of the company itself. There would be no difficulty about making the order for which the defendants asked, were it not that one, at least, of the directors had pleaded, denying the allegations made in the paragraph attacked, and asserting that the proceeds of the sales of bonds had all been properly dealt with, and were it not that certain orders for particulars and for further production had been made. However, if the pleading should be allowed to stand, the expenses in connection with production and examination for discovery would be increased, and there would also be unnecessary expense in preparing for the trial. It was, therefore, a matter of importance that the pleadings should be now corrected, and that the defendants should be relieved of the consequences of their delay in moving.

An order should, therefore, be made permitting the defendants who have pleaded to amend their statements of defence by striking out anything intended as a defence to para. 9 of the statement of claim, and striking out para. 9 and clause 2 of the prayer.

See *Dominion Sugar Co. v. Newman* (1917), 13 O.W.N. 38. Costs in the cause.

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MIDDLETON, J.

MARCH 30TH, 1918.

RE STAMP.

*Will—Construction—Bequest to Infant—Gift over in Event of Donee Surviving Testator and Dying before Attaining Majority —“And”—“Or”—Vested Interest not Subject to be Divested —Donee Surviving Testator and being still an Infant.*

Motion by the executor of the will of one Stamp, deceased, for an order determining a question as to the meaning and construction of the will.