

TEETZEL, J.

MAY 3RD, 1911.

RE PHIPPS ESTATE.

Settled Estates—Trust for Sale—Representation of Unborn Issue and Absent Adults—R.S.O. 1897 ch. 71.

Motion by the executors of the estate of John Phipps for an order construing the will of the said John Phipps.

D. Urquhart, for the petitioners.

F. W. Harcourt, K.C., for the absent adults, infants, and unborn issue.

TEETZEL, J.:—I think *Re Cornell*, 9 O.L.R. 128, is clearly applicable to this case, and that it may be regarded as falling within the scope of the Settled Estates Act.

Good reason is shewn for realising upon the property by sale, having regard to the state of repair, increased taxation, and impossibility of realising from rents a fair return, having regard to the greatly increased value of this property, which is situate at the corner of Yonge and Gerrard streets, in this city.

All the adults who have been found approve of the sale under the supervision of the Court, as does also the Official Guardian for the infants, and I direct that the Official Guardian shall also be appointed to represent the unborn infants, and the two adults whose residence the petitioners have not been able to discover.

The order will therefore go directing that the power of sale given to the executors may be proceeded with forthwith under the supervision of the Master, the purchase money to be paid into Court upon the trusts of the will. Costs out of the estate.

TELFER V. DUN—MASTER IN CHAMBERS—APRIL 27.

Libel—Discovery—Examination of Parties—Denial by Party that he is a Partner—Con. Rules 223, 224.]—Motion by the plaintiff for the examination of W. C. Matthews, as a partner of the defendants, for discovery in an action for libel. The writ was served on W. C. Matthews under Rule 223, but without the notice required by Rule 224, so that he appeared under protest, thereby denying that he is a partner. This was