

There is no reason for continuance against Horan. The matter of the purchase by Horan has been decided, and there is no reason to suppose that he has anything to do with or control over the promissory notes in question, or the money that has been received for them, if they were sold. He is liable to pay his notes to the lawful holder.

The plaintiff applied under Rule 1096 for an order for payment into Court by the defendant Elizabeth Curran of the money in her hands or of some substantial part of it. This Rule, in my opinion, was not intended to apply to such a case as this. This is not a case where property is to be inspected or may go to waste or spoil or be stolen or changed in its condition, or be lost, by neglect or otherwise.

This is more like the case of an action for a debt where the debt is disputed. The principle to be adopted in applying Rule 1096, as laid down in *Wanklyn v. Wilson*, 35 Ch. D. 185, is that, in the fair exercise of its judicial discretion, the Court may order a sum of money to be paid into Court, when it has been sufficiently ascertained that such a sum will in the end be surely payable to the party claiming it. Can I, without trying the case, at least in part, say that any sum will assuredly become payable to the plaintiff, or is there here a sufficient probability that the case will result in plaintiff's favour so as to warrant the transfer of the custody of money from the defendant to the Court?

In my opinion, this is not a case for the application of Rule 1096.

Costs may be in the cause to be disposed of by the trial Judge.

CARTWRIGHT, MASTER.

JANUARY 18TH, 1909.

CHAMBERS.

RE SOLICITORS.

*Solicitor—Bills of Costs—Taxation—Delivery of New Bills
—Action—Election—Costs.*

Motion by one Dunbar for an order for taxation of bills of costs rendered by the solicitors.

N. F. Davidson, K.C., for the applicant.

J. W. Payne, for the solicitors.