

creditors. The contract in question was entered into by one Bernard C. Lens, and he purported to bind himself and one, Dr. Clarke, thereby, but it was established that at the time the contract was entered into the plaintiff was informed that Lens then had no authority to act for Dr. Clarke. Under these circumstances, Kekewich, J., held that neither Dr. Clarke nor the defendant, Lens, was bound, so far as Lens purported to act for Clarke, though he was liable so far as he purported to bind himself. Lens had also purported to bind his wife, and, as to her, there was no information that he had no authority, and it was held that he was personally liable in respect of the contract purported to be made on her behalf. To found such a right of action there must be misrepresentation of the fact of the right to represent the principal, and though such misrepresentation is made out, if no information to the contrary is given to the other contracting party, yet it is not made out where the agent expressly states, or it is known to the other contracting party, that the person assuming to act as agent has no authority from his assumed principal. At the same time the learned judge considered that the case of *Collen v. Wright*, 7 E. & B. 301; 8 E. & B. 647, had negatived the necessity of establishing that the misrepresentation was the result of some wrong or omission on the part of the agent as laid down in *Smout v. Ilbery*, 10 M. & W. 11.

CHARITABLE GIFT — SECRET TRUST — TRUST FOR BENEFIT OF PUBLIC BUT SO THAT THEY SHALL ACQUIRE NO RIGHTS.

In re Pitt-Rivers, Scott v. Pitt-Rivers (1901) 1 Ch. 352. Here the problem presented to Kekewich, J., was whether a devise of property consisting of pleasure ground and museum to a person in fee subject to a secret trust that the property should be held for the use and enjoyment of the public but so that the public should not acquire any right in it, was, notwithstanding the intimation that no public right should be created, a valid charitable trust enforceable by the Crown for the benefit of the public, and he held that it was.

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Kelly's Directories v. Gavin (1901) 1 Ch. 374, was an action to restrain the infringement of a copyright. There were two defendants, Gavin and Lloyds. Gavin being about to get out a book,