

wholly from the testator, and were dictated by him. And from the evidence, I conclude he was not a man who would be influenced as to the disposition of his property by the plaintiff or any one else.

Before the trial commenced counsel for the Attorney-General urged that the National Trust Company, which had been by consent appointed administrator pendente lite of the estate, real and personal, of John A. McLaren, was a necessary party to the suit.

Mr. Aylesworth cited two cases in support of his contention, viz., *Dowdeswell v. Dowdeswell*, 9 Ch. D. 294, and *Weiland v. Bird*, [1894] P. 262. In *Dowdeswell v. Dowdeswell*, where the object of the suit was to establish the title of the plaintiff as the sole next of kin, it was held that a general administrator of the testator's estate was a necessary party to the suit, and not an administrator ad litem. There is no reference whatever in the case to an administrator pendente lite. In *Weiland v. Bird* the only question was as to when the functions of an administrator pendente lite terminated, and it was decided that they terminated with a decree pronouncing in favour of a will with executors. The President (Sir Francis Jeune) said:—"After that (the decree) the position is the same as if there never had been a lis, and as if a testator had died leaving an undisputed will, with executors."

Wharton's Law Lexicon says:—"Administration pendente lite is granted where a suit is commenced in the Probate Court concerning the validity of a will or the right to administration, until the suit be determined, in order that there may be somebody to take care of the testator's estate."

In England, by an amendment to the Probate Act, 20 & 21 Vict. ch. 77, sec. 70, it is provided that, "pending any suit touching the validity of the will of any deceased person, or for obtaining, recalling, or revoking any probate or any grant of administration, the Court of Probate may appoint an administrator of the personal estate of such deceased person: and the administrator so appointed shall have all the rights and powers of a general administrator, other than the right of distributing the residue of such personal estate, and every such administrator shall be subject to the immediate control of the Court, and act under its direction."

Under this Act, an administrator pendente lite may be appointed at the instance of a creditor who is not a party to the suit: *Tichborne v. Tichborne*, 1 P. & D. 730.