

conclusion at which he arrives. The incapacity of a married woman to act as next friend has long been recognised, and it is now too late to enter into a discussion of the sufficiency of the reasons which were deemed adequate for the establishment of this rule. The cases referred to, *In re Duke of Somerset* (1887), 34 Ch. D. 465, and *Mastin v. Mastin* (1893), 15 P.R. 177, conclude me; and, notwithstanding all that is suggested, I may respectfully say that I agree with the conclusions there arrived at, and do not think that the many changes in the law by which the disabilities incident to coverture have been removed are in any way sufficient to displace these authorities.

Reliance is placed upon changes made in the last revision of the Rules of Practice. These changes, it appears to me, do not affect the question. Formerly a married woman, because she was under disability, could not sue for the purpose of asserting her rights without the aid of a next friend. The Legislature relieved her from this disability, and it is no longer necessary to make any reference to this in the Rules. The former Rule that has been omitted had become obsolete. It is provided that infants and lunatics, because they are under disability, may sue by a next friend; and, although a married woman has been given the right to assert her own cause of action in the Court, the Legislature has refrained from authorising her to act as the next friend of others under disability. The former Consolidated Rules made reference to the former practice of the Court of Chancery. No good purpose was served by this, and this reference was omitted; but the former practice of the Court of Chancery affords a safe guide in the interpretation of our Rules, and it goes to shew that the Court ought to exercise large control over those who undertake to represent infants; so that, if the matter was one resting in discretion, I would hesitate long before allowing what is now sought to succeed. The case, however, does not rest in discretion, but on the well-established incapacity of a married woman.

For this reason I think the appeal fails and should be dismissed with costs.