

titled to £1,500. The action was brought claiming to have the whole fund settled on the usual trusts for herself and children; her husband had disregarded an order of court for restitution of conjugal rights, and had stated that he and his wife should not again live together. Under these circumstances it was held that the conduct of the husband amounted to aggravated misconduct so as to entitle the wife to have the whole fund settled.

COSTS—NEXT FRIEND—REVERSION.

The only remaining case to be noted is *Damant v. Hennell*, 33 Chy. D. 224, which was an action brought by an infant plaintiff by his next friend for the protection of a trust fund in which the plaintiff had only a reversionary interest, and a question arose as to how the solicitor and client costs should be paid. Stirling, J., made an order that the costs of the plaintiff should be taxed as between solicitor and client—the taxing officer to distinguish which of such costs are party and party—that the next friend should have his party and party costs out of the fund forthwith, with liberty to apply for the difference when there is a fund to which the plaintiff is absolutely entitled.

NOTES OF CANADIAN CASES.

PUBLISHED IN ADVANCE BY ORDER OF THE
LAW SOCIETY.

SUPREME COURT OF CANADA.

Ontario.]

THE ATTORNEY-GENERAL OF ONTARIO,
Appellant, and

THE ATTORNEY-GENERAL OF CANADA,
Respondent.

Statement of claim in Exchequer Court—Insufficiency of—Summons to fix trial and hearing discharged—Appeal to Exchequer Court from order of a judge in chambers.

A statement of claim was filed by the Attorney-General for the Province of Ontario in the Exchequer Court of Canada, praying that "it may be declared that the personal property of persons dying, domiciled within the Province of Ontario, intestate and leaving no next of kin or other person entitled thereto, other than Her Majesty, belongs to the Province or to Her Majesty in trust for the Province." The Attorney-General for the Dominion of Canada in answer to the statement of claim made prayed, "that it be declared the personal property of persons who have died intestate in Ontario since Confederation, leaving no next of kin or other person entitled thereto except Her Majesty, belongs to the Dominion of Canada, or to Her Majesty in trust for the Dominion of Canada."

No reply was filed, and on an application to Mr. Justice Gwynne in chambers for a summons for an order to fix the time and place of trial or hearing, the summons was discharged on the ground that the case did not present a proper case for the decision of the court. A motion was then made before the Exchequer Court, Sir W. J. Ritchie presiding, by way of appeal from the order of Mr. Justice Gwynne, for an order to fix the time and place of trial. The motion was dismissed without costs, on the ground that he was not prepared to interfere with the order of another judge of the same court.