

RE WEBER AND MORRIS—BRITTON, J., IN CHAMBERS—OCT. 25.

*Payment out of Court—Money Paid in by Mortgagee—Surplus Proceeds of Mortgage Sale—Notice—Personal Service—Service by Publication.*]—Application by Nisbet & Auld Limited, execution creditors of Nathan Morris, for payment out to them of \$205 now in Court. This money was paid into Court by Samuel L. Weber, pursuant to an order made by the Master in Chambers on the 24th June, 1913, and was the surplus realised by sale of property belonging to Nathan Morris, mortgaged to Weber. The sale was under the mortgage. The order for payment into Court provided that notice of the payment into Court should be given "by registered post prepaid to Nisbet & Auld Limited, 34 Wellington street west, Toronto, and Fanny Morris, 76 Bridge street, Brantford, Ontario." The learned Judge said that no evidence was before him of these notices having been given. Nisbet & Auld Limited were the applicants, and, whether by such notice or otherwise, were aware of the payment in; but, before any order for payment out, Fanny Morris should have notice of the application, or reasonable efforts should be made to effect service. If personal service of the application to pay out cannot be made, notice of the application should be addressed to Fanny Morris and be advertised on each of three days in a newspaper published at Brantford. The notice to be of an application at least two weeks after the date of the last publication. Form of notice to be settled by the learned Judge. Adams (Johnston, McKay, Dods, & Grant), for the applicants.