After the passing of the Judicature Act it was held that the rule of equity on this point was now the law of the High Court in all cases, that Act having provided that where there was any conflict or variance between the rules of equity and the rules of the common law with reference to the same matter the rules of equity should prevail (see Ont. Jud. Act, s. 58 (13)). Accordingly in *Trice* v. *Robinson*, 16 Ont. 433, it was held that letters of administration obtained pendente lite related back to the death of the deceased, and that it was sufficient if a person suing as administrator obtained a grant of letters of administration at any time before trial. The rule thus laid down seemed simple enough, but like many other rules laid down by judicial decisions it is no sooner laid down than a process of frittering it away begins, and thesame judge who decided *Trice* v. *Robinson*, held in *Chard* v. *Rae*, 18 Ont. 371, that notwithstanding letters of administration related back to the death of the intestate, yet an action commenced by a person who had not already obtained letters of administration would not stop the running of the Statute of Limitations in favour of the defendant until the plaintiff actually obtained them, and that the claim might thus be barred pendente lite, although the action was commenced before the statute had barred the claim. When one reads the facts of that case one is almost tempted to surmise that it is an instance of "a hard case making bad law."

Thus though the letters related back to the death of the intestate they nevertheless were not for all purposes sufficient to validate the plaintiff's status at the beginning of the action. The result of the decision was to create an anomalous condition of affairs: for some purposes the letters related back, and for others they did not, a plaintiff obtaining letters pendente lite was qualified to sue as administrator, and he was not; his action was commenced with sufficient authority, and it was not. The decision, in fact, seems to involve contradictory propositions which it is difficult to reconcile with sound reason. Even at law letters of administration whenever obtained were held to relate back to the death of the deceased. In *Foster* v. *Bates*, 12 M. & W. 226, it is said that "the title of an administrator though it does not exist until the grant of administration relates back to the time of the death of an intestate, and that he may recover against a wrong-