

Neither John nor James entered an appearance. The caveat remained in force only three months. See C. R. 23. It was not a correct statement in the caveat that the testator had been declared a lunatic. It was stated in the order above mentioned, that "he was from mental infirmity, arising from constitutional causes, incapable of managing his own affairs. Such a condition may be quite consistent with testamentary capacity.

The cases of *Rhodes v. Mansell Hill Land Co.* (1861), 29 Beav. 560, applied in *Williams v. Williams*, [1912] 1 Ch. D. 399, are in point on the general question of what action will work a forfeiture under clauses in a will providing for same. I find no case in which the proposition that lodging a caveat is in itself instituting proceedings to set aside a will.

The order will be as stated upon the third point, and that all accounts will be referred to His Honour the Senior Judge of the Surrogate Court for the County of York. He will examine and report upon the charges and disbursements of the applicants, payable under the order of Mr. Justice Middleton, and upon that report I will grant a *fiat* for payment. The learned Surrogate Judge will finally pass the accounts of the applicants as executors.

The costs of all parties except James and John McDevitt, will be paid out of the estate. James and John will each bear his own costs.

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HON. R. M. MEREDITH, C.J.C.P.      NOVEMBER 20TH, 1913.

RE ANNETT (A LUNATIC).

5 O. W. N. 331.

*Lunacy—Application for Order Superseding Lunacy Order—Recovery of Lunatic—Lunacy Act, 9 Edw. VII., c. 37, s. 10—Evidence—Insufficiency of Material—Right to Renew Motion—Reference—Notice to Committee.*

MEREDITH, C.J.C.P., refused to make an order under the Lunacy Act, 9 Edw. VII. c. 37, s. 10, superseding an order declaring the applicant a lunatic upon the ground of the insufficiency of the material filed, but gave leave to have the motion renewed upon proper material and proper notice to the committee.

9 Edw. VII. c. 37, s. 10, discussed.

Application by one G. Annett for an order under sec. 10 of the Lunacy Act, 9 Edw. VII., ch 37, superseding an order made on March 10th, 1911, declaring him to be a