

also to *Graham v. Williams* (1884-5), 8 O.R. 478, 9 O.R. 458; *Blight v. Ray* (1893), 23 O.R. 415; *Gearing v. Robinson* (1900), 27 A.R. 364; *Cut-Rate Plate Glass Co. v. Solodinski* (1915), 34 O.L.R. 604. He was of opinion that the decision of the Referee should be reversed with costs here and below.

LENNOX, J., was also of opinion, for reasons stated in writing, that the appellants had not made themselves liable as owners. He agreed with MEREDITH, C.J.C.P., that there should be a reference back, if desired.

MASTEN, J., also agreed with MEREDITH, C.J.C.P.

Judgment as stated by MEREDITH, C.J.C.P.

HIGH COURT DIVISION.

RE GREEN—KELLY, J.—JAN. 31.

Will—Construction—Originating Notice—Parties—Service.
—Application, by originating notice, by the Capital Trusts Corporation, stated to be the administrators of the estate of Philip Green, deceased, “in the place and stead of Lucy Green, executrix of the last will and testament of the said deceased,” for an order declaring the construction of the will of the deceased. The motion was heard in the Weekly Court. On the return of the motion it was stated by counsel, but not otherwise proved, that Lucy Green had become of unsound mind. The letters of administration to the applicants were not produced. There was no proof of service of the notice of motion on John James Green, a son of the testator, to whom the will directed a share of the estate to be paid on the death of the testator’s widow; the argument proceeded subject to its being determined whether it was necessary that he should be represented. The only service effected upon the widow of the testator and a daughter Margaret, both interested under the will, but whose interests in the issue raised by the application were in conflict with each other, was upon a solicitor who accepted service for them; but it was not shewn what instructions he had in the matter, and he gave no undertaking to appear for them. He was not present on the argument, but the applicants’ counsel submitted authorities, he