

the notes said he would pay the money if he got better, and if not his executors would ; and there was this memo. at the foot of the other : " If this note is unpaid at my decease, my executors are requested to pay it." It was discussed, but was not thought necessary to decide, whether or not these notes were donationes mortis causa, or gifts inter vivos ; but it was

Held, that these notes having been paid by the executors, they were protected in such payment by R.S.O., c. 110, sec. 31, which provides that " it shall be lawful for my executors to pay any debts or claims upon any evidence that they may think sufficient," and that these notes were under the circumstances " claims " within the meaning of the statute.

The following authorities were referred to on this point : Lewin on Trusts, 8th Am. ed., 592 ; Williams on Executors, 9th ed., 1695-1698, 1740-1 ; and *Reg. v. Emery*, 5 Vesey, 144.

J. B. Davidson, for executors.

J. M. Glenn, for adult residuary legatees.

J. A. Kains, for infant residuary legatees.

Province of New Brunswick.

EQUITY COURT.

TUCK, J.]

[Dec. 20, 1895.

JONES ET AL. v. RUSSELL.

Agreement—Construction of—Patent rights and improvements thereon.

An agreement was entered into between plaintiff and defendant whereby defendant assigned one-half interest in all patent rights, etc., obtained on a certain snow plough, together with all improvements which might thereafter be made upon said plough. The defendant afterwards patented a plough which he claimed to be a new one.

Held, that the agreement extended to the second plough.

The defendant was the inventor of a snow plough known as the " Eagle Wing " plough. Being in need of funds, he sold to plaintiff one-half interest in all patent rights which he might obtain on said plough, and also all improvements thereon. Defendant in 1884 patented the " Eagle Wing " plough, but he became dissatisfied with it, and built a plough which he called the " Wing Elevator Plough," which he also patented. The first patent is for alleged new and useful improvements in snow ploughs, and the second for alleged new and useful improvements in " railway wing snow ploughs." The plaintiffs contended that under the agreement they were entitled to one-half interest in the " Wing Elevator Plough," and the defendant denied this, saying it was in no way an improvement on the first.

The defendant claimed for the second plough, over and above the first :

1st. The one-piece chisel shape steel bit, cutting horizontally the width of the roadbed.

2nd. The steel flanges, each constructed to cut the ice, and to be firmly bolted to the outside grade timbers.