1911, in an action for $500 damages for alleged conversion of certain property of the plaintiff's late husband, claimed by her as his administratrix. At trial judgment was given the plaintiff against the Thompsons, for $100, and the action dismissed as against the defendant Pearson.

The appeal was heard by MEREDITH, C.J.C.P., TEETZEL and MIDDLETON, JJ.

A. St. G. Ellis, for the defendants.
F. D. Davis, for the plaintiff.

MIDDLETON, J.:—Though one who takes upon himself to deal with the assets of a deceased person is in one sense a wrongdoer and is rightly treated as an executor "de son tort" because he has no rightful title to the office, from the earliest times it has been recognized that his acts are not entirely void.

Campbell, C.J., in Thomson v. Harding, 2 E. & B. 630, says (at p. 640): "Where the executor de son tort is really acting as an executor, and the party with whom he deals has fair reasons for supposing that he has authority to act as such, his acts shall bind the rightful executor and shall alter the property."

But long before this in Coulter's case, 5 Co. 30 (a), it is said that "all lawful acts which an executor of his own wrong does are good," this statement being based on the still earlier case of Graysbrook v. Fox, 1 Plow. 282, where an administrator acting under a void grant was treated as an executor de son tort, which determined that "if the defendant here had averred that the administrator had aliened the goods to him for a certain sum and had employed the money in discharge of the funeral or of the debts of the deceased, or about other things which an executor should be forced to do, then the sale for such purposes should not be avoided but should remain indefeasible." Though one reason given was the colour of right derived from the void letters, the governing factor in the decision was that "he that has the right suffers no disadvantage although he be bound by the act of the administrator, for it is no more than he himself was compellable to do, and the administrator having done that which the executor was himself obliged to do, his act shall be allowed good," and it was "no detriment to anyone that the thing done should remain stable and firm without impeachment."

This is accepted as correctly stating the law in Ellis v. Ellis, [1905] 1 Ch. 613.

Paull v. Simpson, 9 Q.B. 365, determines that when one takes