

further set up an agreement made by Mary Ann and Agnes after the death of their mother to accept \$2,900 in full. He claimed that if the estate of the mother was not bound by the settlement, he should be indemnified by Mary Ann and Agnes, and he paid the \$2,900 into Court. The Chief Justice held that the settlement was not binding because there was then no administrator to the mother's estate, but that the agreement was actually made and was binding, and also that \$40 over and above the \$2,900 was due, and gave judgment for \$40 without costs.

G. G. McPherson, K.C., for appellants.

W. R. Riddell, K.C., for defendant.

THE COURT (ARMOUR, C.J.O., MACLENNAN, MOSS, J.J.A.) held that the evidence supported the finding that the maintenance of the mortgagees on the farm was to be in lieu of interest, but that, as the amount paid into Court was \$2,900, and not \$2,960, as the Chief Justice thought, the judgment should be increased to \$100, the amount due under the mortgage being \$3,000. Judgment varied accordingly and in other respects appeal dismissed without costs; MACLENNAN, J.A., dissenting as to the costs.

LOUNT, J.

APRIL 19TH, 1902.

TRIAL.

MURRAY v. EMPIRE LOAN AND SAVINGS CO.

*Vendor and Purchaser—Sale of Land—Balance of Purchase Money—
Evidence—Weight of—Corroboration.*

Action brought to recover \$3,000 alleged by plaintiff to be the balance due in respect of purchase money (\$9,000) upon a sale of certain property by her to defendants. Defendants counterclaimed for arrears of taxes left unpaid by plaintiff.

W. Cassels, K.C., and A. W. Anglin, for plaintiff.

C. H. Ritchie, K.C., A. H. Marsh, K.C., and J. Turner Scott, for defendants.

LOUNT, J.—The plaintiff's evidence has been contradicted by witnesses for defendants whose evidence should, I think, be accepted. Moreover, the correspondence and documentary evidence does not support the plaintiff's account of the transaction, but corroborates and confirms that set up by defendants, and therefore should be given effect to, and the action be dismissed. There is no dispute