the corpus of the estate, and therefore in my opinion the direction is in substance a direction to allot between the daughters and the son George Sandfield the whole fund, which brings the case clearly, I think, within the principle of the decision in Leeming v. Sherratt, and entitles the representatives of any of these beneficiaries who has died, or may happen to die before the final allotment is made, to the share of the one who is dead.

If it be not so, I see no escape from the conclusion that in a possible event, namely, the death of all the daughters and George Sandfield before the final allotment, what might remain unallotted at the death of the last survivor of them would be undisposed of; but the decree in Langlois v. Macdonald determines that there is no intestacy as to any part of the testator's estate, a conclusion which could have been come to only because the Court was of opinion that the daughters and George Sandfield took vested interests in the corpus of the testator's estate over which the daughters had not been given powers of appointment.

In my opinion the appeal fails and should be dismissed.

TEETZEL, J.:—I agree.

CLUTE, J.:—I agree.

HALL V. SHIELL—DIVISIONAL COURT—MAY 11.

Promissory Notes—New Evidence—Suspicious Circumstances—New Trial.]—Appeal by the defendant from the judgment of MIDDLETON, J., of the 20th November, 1910, in favour of the plaintiffs in an action on promissory notes. The judgment of the Court (FALCONBRIDGE, C.J.K.B., BRITTON and RIDDELL, JJ.) was delivered by RIDDELL, J., who in view of new evidence which could not fairly have been expected to be in the knowledge of the defendant at the trial, and of the suspicious circumstances attending the transactions in connection with which the notes were given, thought that it might well be that a different finding would be made upon a new trial, in which all the facts would be cleared up. A new trial was accordingly ordered, and the hope was expressed that the parties would be able to agree that the evidence so far should stand, to be supplemented as either party might desire. Costs of the former trial to be in the discretion of the trial Judge upon the new trial; costs of this appeal to be to the plaintiffs in the cause in any event. J. L. Ross, for the defendant. W. C. Mackay, for the plaintiffs.