

The form of judgment submitted by the defendants is the correct one. No costs.

The application was renewed to Divisional Court, the same counsel appearing.

HON. MR. JUSTICE RIDDELL (8th February, 1913):—
There will be no change made in the direction heretofore given. "The form of judgment submitted by the defendants is the correct one."

Costs of this motion to the defendants.

DIVISIONAL COURT.

FEBRUARY 3RD, 1913.

GRAY v. BUCHAN.

4 O. W. N. 770.

Judgment—Refused to Vary—Evidence.

DIVISIONAL COURT upon further evidence refused to vary judgment herein, 23 O. W. R. 210.

Motion to vary minutes of judgment of Divisional Court.

J. J. Gray, plaintiff in person.

H. S. White, for defendants.

HON. MR. JUSTICE RIDDELL:—We give leave to the defendants to prove by affidavits an actual sale which the plaintiff says he disputes; the defendants decline the offer—and when an opportunity is once more offered them they again decline.

We did not think that under the circumstances at the trial, more proof was needed—the defendants refuse to give further proof, now and plaintiff will have full advantage of this refusal upon the appeal. But we cannot change our judgment. No costs.