

had failed to establish either that the defendant was guilty of fraud, or that there was any warranty, express or implied, that the horse was sound; and he dismissed the action without calling upon the defendant. A careful consideration of the evidence and of the argument upon the appeal, had failed to convince the Court that the judgment was wrong. The appeal was, therefore, dismissed with costs. R. T. Harding, for the plaintiff. F. H. Thompson, K.C., for the defendant.

---

RE CAMERON AND HULL—SUTHERLAND, J.—MARCH 6.

*Vendor and Purchaser—Title to Land—Application under Vendors and Purchasers Act—Doubtful Question of Construction of Will—Refusal to Construe—Order for Representation of Possible Claimants under Will.*—An application by a vendor under the Vendors and Purchasers Act to have it declared that an objection made by the purchaser to the title to land contracted to be sold by agreement dated the 8th November, 1911, were invalid. The purchaser's objection was, that the fee in the land did not, under the will of Andrew Henderson, deceased, vest in Samuel James Henderson, through whom the plaintiff derived title. The clause in the will relied on by the vendor was this: "I give to my mother Mary Jane Henderson and to my brother Samuel James Henderson jointly the share I have in the farm on which we live, to have and to use or to sell as they may choose, each to be entitled to the benefits of one-half of the product of my share in the farm and chattels—but it is hereby clearly understood and designed that my mother shall have no power to sell or convey any part . . . but is only to have a share of the proceeds for her use during her life—and at my mother's death then the whole of my interest in this estate and whatever else I may die possessed of is to be given to my brother Samuel James Henderson, as above, to have and to hold as and for his own or to dispose of as he may wish." By an interim order made by a Judge of the High Court on the 17th February, 1912, in the matter of the application under the Act, reciting that Mary Jane Henderson was dead and had left certain named children and grandchildren, and directing that one of the children and two of the grandchildren should represent in the proceeding the children and grandchildren and heirs and next of kin of Mary Jane Henderson, who should be bound by any order which might be made. The representatives named were served, but did not appear. There was a dispute as to whether