

C. A. Moss, and F. Morison, for vendor.

W. S. MacBrayne, for purchasers.

HON. SIR GLENHOLME FALCONBRIDGE, C.J.K.B.:—Mr. Moss put the case ingeniously and ably as to the agreement of 9th January, 1909, being spent or *effete* so as to preclude the possibility of trouble arising to purchasers therefrom. But in view of the declared attitude of Mrs. Bell and the *vis inertiae* of the Bank of Hamilton and the possible assertion of right of purchasers from the Cumberland Land Co., I am obliged to hold that there is "a reasonable decent probability of litigation" to which the purchasers may be exposed and that this title must for this reason only be classed as doubtful.

Armour on Titles, 3rd ed. 200-1; *Reid. v. Bickerstaff* [1909] 2 Ch. at 319; *Re Nichols and Van Joel*, [1910] 1 Ch. 43.

No costs.

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HON. SIR G. FALCONBRIDGE, C.J.K.B.

JULY 3RD, 1913.

### BREED v. ROGERS.

4 O. W. N. 1576.

*Injunction—Interim Order—Alleged Nuisance—Coal Sheds—Balance of Convenience—Damage not Irreparable—Order Refused.*

FALCONBRIDGE, C.J.K.B., refused to grant an interim injunction restraining the erection of certain coal sheds alleged to be a nuisance, upon the ground that the balance of convenience had been shewn to be in defendant's favour and the damage in any costs was measureable in money terms.

Application by plaintiff for an interim injunction, restraining defendants from erecting certain coal sheds at the head of Lawton avenue, Toronto, which were alleged to constitute a nuisance.

S. H. Bradford, K.C., and T. A. Silverthorne, for plaintiff.

G. F. Shepley, K.C., and G. W. Mason, for defendants.

HON. SIR GLENHOLME FALCONBRIDGE, C.J.K.B.:—It does not appear to me that the plaintiff has made out a sufficiently strong case to justify the Court in interfering by way of interlocutory injunction.