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at her death she will divide the estate that I now give her among our children in the most just manner possible." It was argued that this constituted a precatory trust, and that it operated to cut down the gift to a life estate, with a power of appointment among the children. The learned Judge said that at one time this would probably have been so; but the tendency of the more recent decisions was all the other way. In this will the gift to the wife was absolute, and the clause quoted recognised this and fell far short of what was now regarded as necessary to cut down the absolute estate given. In addition to the cases referred to by the Chancellor in *Johnson v. Farney*, 9 D.L.R. 782, the learned Judge referred to *Re Williams*, [1837] 2 Ch. 12, and *Re Oldfield*, [1904] 1 Ch. 549. No costs between the vendor and purchaser. Costs of the Official Guardian to be paid by the vendor. *F. D. Davis*, for the vendor. *Grayson Smith*, for the purchaser. *J. R. Meredith*, for the Official Guardian.

GRAY v. BUCHAN.

(Decision No. 3.)

Ontario Supreme Court (Appellate Division), Falconbridge, C.J.K.B., Britton, and Riddell. February 3, 1913.

[*Gray v. Buchan*, 6 D.L.R. 875, affirmed.]

JUDGMENT (§ I G—55)—Modification—Motion to Vary—Dealing in Company-shares—Brokers—Proof of Actual Sale—Refusal to Give Further Evidence.]—Motion by the plaintiff to vary the minutes of the judgment of a Divisional Court, 6 D.L.R. 875, 4 O.W.N. 220.

RIDDELL, J., gave the judgment of the Court in these words: We gave 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 the plaintiff will have full advantage of this refusal upon the appeal. But we cannot change our judgment. No costs. *J. J. Gray*, for the plaintiff. *H. S. White*, for the defendants.