

have happened, the children of Warren are entitled to one-third of the one-fourth of the corpus which would have gone to the children of Henry if he had left children entitled to take; the children of Norman to one-third of the same one-fourth; and that the remaining one-third of the same one-fourth is vested in the trustees upon and subject to the same trusts as are declared in respect of the one-fourth devised to the children of Osborne.

The costs of all parties will be paid out of the trust estate, those of the trustees between solicitor and client.

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NOVEMBER 5TH, 1906.

DIVISIONAL COURT.

CRAWFORD v. TILDEN.

*Railway—Dominion Undertaking—Mechanics' Liens — Provincial Act—Application of—Constitutional Law.*

Appeal by defendants the Guelph and Goderich Railway Company from judgment of CLUTE, J., declaring plaintiff and other lien-holders entitled to a lien upon the lands of the appellants in the county of Huron.

The appeal was heard by BOYD, C., MAGEE, J., MABEE, J.

E. D. Armour, K.C., for appellants.

E. L. Dickinson, Goderich, for plaintiff.

A. M. Stewart, for defendants Piggott & Co.

BOYD, C.:—Apart from special statute, the law of Ontario still is that a railway as a going concern cannot be sold under execution by the sheriff, unless he is able to sell the whole undertaking. It is not competent under judicial process of this kind to sell by piecemeal so as to disintegrate the road. That was recognized as the law by the Privy Council when directing, in *Redfield v. Wickham*, that a railway undertaking might be as a whole sold under execution, according to the proper construction of the Dominion railway law: 13 App. Cas. 473, 475, 476.