

afterwards made of these numbered certificates, raised a natural but erroneous suspicion on the part of the plaintiff that the defendants had been selling the plaintiff's stock and keeping the proceeds, and had bought in the same number of shares, when the stock had fallen in the market, to meet the plaintiff's demand.

Under all the circumstances of the case, I think there should be no costs of this appeal.

MULOCK, C.J., and LEITCH, J., concurred.

SUTHERLAND, J., also concurred. He was of opinion, for reasons stated by him in writing, that there was either an absence of agreement to keep on hand the identical stock or there was acquiescence on the part of the plaintiff in the defendants dealing with the identical certificates as they did. He was of opinion that the appeal should be dismissed with costs.

*Appeal dismissed without costs; SUTHERLAND, J., dissenting as to costs.*

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HIGH COURT DIVISION.

LENNOX, J.

JUNE 17TH, 1913.

RE HARRISON.

*Will—Construction—Devise—Restraint on Alienation during Life of Husband of Devisee—Validity—Partition or Sale.*

Motion, under Con. Rule 938, for an order determining questions arising upon the construction of the will of Louisa Ann Harrison, deceased.

W. B. Raymond, for all parties interested.

LENNOX, J.:—Mr. Raymond, applying for construction of the will, states that he represents all the parties interested in the property. The person who took the life estate is dead. Mrs. Kemp, Mrs. Verner, and Mrs. Stringer are now entitled to a fee simple in possession. The question to be determined is, can they sell the property? At the time of the making of the