

of his alleged promise so to do, the burden of proof was on the plaintiff, and he had failed to sustain it.

Judgment for the plaintiff, for an account except as to the Merrill lot and the Hoffman farm. Reference to Master at Woodstock. Further directions and costs reserved till after report.

A. S. Ball, Woodstock, solicitor for plaintiff.

Mabee & Makins, Stratford, solicitors for defendant.

STREET, J.

FEBRUARY 24TH, 1902.

WEEKLY COURT.

RE BRADBURN AND TURNER.

*Vendor and Purchaser—Will—Charge of Debts—But Estate Charged not Vested—R. S. O. ch. 129, sec. 18—Executors can Make Title—Devises of Residue After Payment of Debts need not be Parties to Conveyance—Widow—Dower—Election — Purchaser Entitled to a Release of, from Widow, or Declaration, so as to Estop her.*

Petition under the Vendors' and Purchasers' Act.

A. P. Poussette, K.C., for vendors.

E. A. Peck, Peterborough, for purchaser.

STREET, J.—The testator, Thomas Bradburn, by his will, dated 12th January, 1900, in the first place appointed his three sons, who were the vendors, to be his executors, directing them to pay all his lawful debts out of his estate. Then followed devises and bequests of real and personal property to various members of his family. These were followed by a clause declaring that all the foregoing property was to be free and clear of every incumbrance whatsoever. The next clause was as follows:—"I do hereby will the following property, subject to the payment of all my just debts; and when all my debts are fully paid, the balance shall be divided amongst my said four children, Thomas, William, Rupert, and Mabel, share and share alike. The property which I will to my children, share and share alike, is situated as follows." Then came a list of the lands referred to in this clause covering the land which was the subject of the petition. Then the will proceeded:—"I would here suggest what I consider the best means of protection for all parties interested in this my will, to make no division of any of my property, but pool it altogether and divide the proceeds share and share alike. . .