

THE

Eastern Law Reporter.

VOL. VII. TORONTO, OCTOBER 1, 1909. No. 6

NEW BRUNSWICK.

SUPREME COURT IN EQUITY.

BARKER, C.J.

AUGUST 17TH, 1909.

FENETY ET AL. v. JOHNSTON.

*Contract—Specific Performance—Memorandum of Agreement
—Statute of Frauds—Construction of Will—Title—Con-
veyance by Executors.*

A. J. Gregory, K.C., and J. J. Fraser Winslow, for the plaintiffs.

J. D. Phinney, K.C., for the defendant.

BARKER, C.J.:—The bill in this case was filed for the specific performance of a contract for the purchase by the defendant of a certain property in the city of Fredericton known as "Linden Hall," a part of the estate of the late George E. Fenety in his possession at the time of his death in September, 1899. Mr. Fenety left a will dated December 29th, 1895, with three codicils, dated respectively August 26th, 1898, December 9th, 1898, and March 10th, 1899. The will and codicils were duly proved and letters testamentary were granted to William T. H. Fenety, Georgina C. Fenety and Frederick S. Sharpe, the executors and trustees appointed in the will, on the 26th October, 1899. Sharpe died sometime before this transaction arose and the plaintiffs are the two surviving executors and trustees, who are also two of the testator's children. The testator left him surviving four sons and three daughters and his widow,