L.J., however, occurs in the same case, and also in *Re Popple* v. *Barratt*, 25 W. R. 248, an earlier case, which is cited in the text-books, which, we think, is calculated to mislead, to the effect that the Act does not enable the Court to try disputed questions of fact. That remark was made in the course of the argument in *Re Burroughs*, and, we think, will be seen is at variance with the decision ultimately arrived at. In that case the question was whether on the conflicting evidence presented to the Court by affidavits and cross-examinations thereon, (and which the Court held to be admissible), the plaintiff had established a title to the soil of the land in question, or merely to a right of pasturage, and the Court in effect did try the disputed question of fact presented by the evidence, and found that the vendor had established a title to the soil.

It is, we therefore think, clear that questions of fact, as well as questions of law, arising upon the investigation of any title, may be inquired into and determined upon a summary application under the Act, and that whatever evidence would be admissible in the Master's Office upon a reference as to title, as to any question of fact, is equally admissible upon a summary application under this statute.

Applications under the Act are usually made in this Province by petition, and the only parties necessary to be brought before the Court upon such applications are those who would be necessary parties to an action for specific performance: *Re Eaton*, 7 P. R. 396; and as a general rule only the parties to the contract are necessary parties to a suit for specific performance, Fry (2nd Ed.), 62, 73. Parties who are unnecessarily served with the petition will be dismissed with costs: *Re McNabb*, 1 Ont. R. 94.

The decision of the Court on the question presented is only technically binding upon those who are actually parties to the application; and third persons who are not parties are not precluded from subsequently disputing the correctness of the decision which may be arrived at (see *Osborne to Rowlett*, 13 Chy. D., *per* Jessel, M. R., at p. 781). Whenever, however, the question of title is doubtful, the Court does not, as a rule, determine it in favour of the vendor, but is always guided in applications under the statute by the doctrine of equity "that a purchaser is not to be compelled to accept a doubtful title."

Under this statute almost any question arising in the investigation of the title, or as to the construction of the contract or liability thereunder, may be determined. In very many cases the Court has construed wills: *Re E. Williams*, 26 Gr. 110; *Re Eaton*, 7 P. R. 396; *Givins* v. *Darvill*, 27 Gr. 502; *Re McNabb*, 1 O. R. 94; *Re Casner*, 6 O. R. 282; *Re Winstanley*, *Ib.* 315; *Re Cooke*, 8 O. R. 530; *Re Brown & Sibly*, 3 Chy. D. 156; *Re Coleman & Jarrom*, 4 Chy. D. 165; *Re White & Hurdle*, 7 Chy. D. 201; *Re Methuen & Blore*, 16 Chy. D. 696; *Re Sturge & G. W. Ry. Co.*, 19 Chy. D. 444; *Re Portal & Lamb*, 27 Chy. D. 600; 30 Chy. D. 50; *Re Fisher & Haslett*, 13 L. R. Ir. 546; *Re Parry & Daggs*, 31 Chy. D. 130.

It has also construed the contract: *Re Gray* and *Metropolitan Ry. Co.*, 44 L. T. N. S. 567; and has determined whether the conditions of sale under which the purchaser bought are misleading: *Re Marsh & Granville*, 24 Chy. D. 11; *Cumming* v. *Godbolt*, 29 N. J. 27; W. So (84) 204. Whether a purchaser or vendor is entitled to compensation for misdescription in the advertisement and particulars of sale: *Re Turner & Skelton*, 13 Chy. D. 130; *Orange to Wright*, 52 L. T. N. S. 606; 54 L. J. Chy. 590. Whether a particular covenant claimed by the purchaser should be inserted in the deed from the vendor: *Re Gray & Metropolitan Ry.*