

the agreement be read as a whole, as every instrument should be, to arrive at its true intent. No doubt collateral agreements have been held enforceable in many cases; but before such authorities become applicable we must be satisfied that the agreement in question is really collateral, and this is the point about which the Court says least.

"A large number of cases are cited, mostly American which we do not profess to examine. But the English cases most nearly in point are easily distinguished. *Jeakes v. White*, 6 Ex. 873, 86 R.R. 527, was really this; 'In consideration that I investigate your title with a view to a loan will you pay my costs in any event?' *Boston v. Boston* (1904), 1 K.B. 124, C.A., comes to this; 'If you buy Whiteacre I will repay you the purchase-money.' In neither cases is there any contract for an interest in land at all; no one is bound to convey or to buy. We hope the doctrine of *Campbell v. Mercier* will be reconsidered by some Court of higher authority."

While the *London Law Times* after reprinting the writer's article at length commented as follows: "An article appears in the *CANADA LAW JOURNAL* of the 2nd May, which we print this week (see *post*, p. 223) discussing a case entitled *Mercier v. Campbell*, turning upon the construction of the Statute of Frauds. The facts of that case (as reported in 14 O.L.R. 639) were as follows. The plaintiff possessed a hotel and the defendant desired to purchase it. An agreement was accordingly entered into under the hands and seals of the parties whereby it was agreed that the plaintiff should sell it and the defendant should buy it. To this was added the stipulation that 'in case the plaintiff refuses to carry out the sale of the property as aforesaid, she will have to pay to (the defendant) the sum of 300 dollars. And in case (the defendant) refuses to carry out the part assigned to him in accepting the title to the said property he will have to pay (the plaintiff) a like sum of 300 dollars.' The defendant did eventually refuse to carry out his bargain, and was sued by the plaintiff for the sum of 300 dollars. Upon the facts it seems to have been felt clear that a part of the contract of sale was not binding by reason of the Statute of Frauds, and the question then arose whether another part of it, being alternative and distinct, was