

was entitled to a certain mortgage made in favour of John McMillan, or whether John McMillan died intestate in respect to that mortgage. John McMillan was an unmarried man of considerable means, residing in the township of Cornwall. He made his will on the 27th February, 1886, apparently disposing of all his property. At that time he was the owner of two parcels of land. He devised one parcel to one Corbett, and the other to his sisters Mary McMillan and Isabella McMillan. Then followed this clause in the will: "I will and bequeath to my sisters Isabella McMillan and Mary McMillan all my chattels and movables and all moneys on hand and moneys to be received by my notes, and in case any one of my said sisters should die before me. I will and bequeath the said chattels, moneys, and notes to the one of said sisters who may survive me." Mary died before the testator. After her death, John, by a codicil dated 14th August, 1892, "erased," as he said, from the will the parcel of land devised to Mary and Isabella, and devised it to Isabella. He made no other change in the will. John McMillan, before the making of the codicil, had sold to another the land previously devised to Corbett, and the mortgage in question is for the unpaid purchase money upon that land.

C. A. Masten, for executors of Isabella McMillan.

W. M. Douglas, K.C., for next of kin of John McMillan.

BRITTON, J., held that the mortgage passed to Isabella, as the sister who survived the testator, under the word "chattels" in the will. Order accordingly. Costs of all parties out of the estate of Isabella McMillan.

MACLENNAN, J.A.

JULY 2ND, 1902.

C. A.—CHAMBERS.

## RE LENNOX PROVINCIAL ELECTION.

### CARSCALLEN v. MADOLE.

*Parliamentary Election—Recount of Votes—Ballot Papers not Objected to before Deputy Returning Officers—Form of Ballot Papers—Cross Outside Upper Line—Circular Mark—Marks in Addition to Regular Cross—Words—Initials—Indefinite Marks.*

Appeal from a recount of ballots by the Judge of the County Court of Lennox, who found the votes cast for the two candidates, Carscallen and Madole, to be equal. Carscallen appealed in respect of seven ballots, and Madole appealed generally. It was arranged that Carscallen's appeal should first be heard and disposed of, and this judgment deals only with his appeal.