

NOVA SCOTIA.

SUPREME COURT.

TRIAL AT DIGBY.

OCTOBER 28TH, 1910.

BROOKES v. BROOKES.

*Deed of Lands — Description — Fraud—Delay—Laches—
Statute of Frauds—Reforming contract.*

S. A. Chesley, K.C., for plaintiff.

W. E. Roscoe, K.C., and J. A. Grierson, for defendant.

Action to reform a deed.

GRAHAM, E.J.:—This action is brought in respect of 100 acres of woodland the eastern half of "lot No. 50 in the north range of the Hatfield grant" in the county of Digby.

The plaintiff and his mother and a brother, since deceased, in a deed dated the 3rd of April, 1883, conveyed with other lots the homestead, etc. (this land by this description) to the defendant, and this plaintiff is now seeking to have this lot struck out of the deed because it was not included in the sale and because the deed, as to this lot, was misread to the parties. That is, it was fraudulently omitted in the reading.

Lot 50 belonged originally to Peter Brookes. He by a will made before the 31st December, 1856, devised with other lands the eastern half of lot 50 to his widow for life and after her death "all the above said lots of land" to Harris Harding, this defendant. But by a deed made before, namely 23rd November, 1854, registered January 23rd, 1857, he conveyed all of lot 50 to the plaintiff's father, one Cornelius Brookes. Cornelius Brookes by will, in an event which happened, namely of the widow remarrying, left all of his property to his children and this plaintiff is the survivor.

The deed to the defendant was prepared by the late Charles Mc.C. Campbell, the registrar of deeds for that county, and all the parties present at that time who are now living agreed that the deed was read over before signature,