

MAY 7TH, 1914.

## GNAM v. McNEIL.

*Contract—Settlement of Action—Intervention of Stranger—  
Promise to Pay Costs—Withdrawal of Action—Performance of Promise—Failure to Prove Promise to Pay Damages—  
Statute of Frauds.*

Appeal by the plaintiff from the judgment of BRITTON, J., ante 223.

The appeal was heard by MULOCK, C.J.Ex., HODGINS, J.A., RIDDELL and LEITCH, JJ.

H. H. Dewart, K.C., and D. S. McMillan, for the appellant.

D. L. McCarthy, K.C., and T. L. Monahan, for the defendant, the respondent.

THE COURT dismissed the appeal, with costs if asked for.

## HIGH COURT DIVISION.

LATCHFORD, J.

MAY 4TH, 1914.

## RE MITCHELL.

*Will—Construction—Codicils—Annuities, whether Payable out of Income or Corpus.*

Motion by the widow of Thomas Mitchell, deceased, for an order determining the question whether, under his will and two codicils, certain annuities were to be paid out of the income or the corpus of his estate.

G. C. Thomson, for the widow.

J. G. Farmer, K.C., for the executors and the representative of a class of persons interested.

J. R. Meredith, for the Official Guardian.

G. M. Willoughby, for the Inspector of Prisons and Public Charities.