

As to the evidence rejected at the trial, it was rejected in the view that it was only the title of the plaintiff derived from the previous owners which was in question. Of course, when the possession of the plaintiff is in controversy, evidence may be given of conversation between him and any person constituting a contract of letting of the land, if it appear that this other went into possession. This will help to establish that the possession of that other is really the possession of the plaintiff.

FALCONBRIDGE, C.J., and LATCHFORD, J., agreed in the result.

TEETZEL, J.

NOVEMBER 4TH, 1911.

*RE GRAHAM.

Surrogate Courts—Jurisdiction—Claim against Estate of Deceased Person—Donatio Mortis Causâ—Surrogate Courts Act, sec. 69(1) — Amount Involved—Appeal—Forum—Judge in Weekly Court—Consent to Jurisdiction—Judge Acting as Arbitrator—Appeal as from Award—Dismissal of Claim—Evidence—Refusal to Interfere.

An appeal by Ida May Sewell from the order or judgment of the Judge of the Surrogate Court of the County of York dismissing the claim of the appellant to a portion of the estate of John Graham, deceased.

W. N. Ferguson, K.C., for the appellant.

H. T. Kelly, K.C., for the administrator of the estate of the deceased.

TEETZEL, J.:—The question is, whether the claimant is entitled to hold a certain savings bank pass-book and the money represented by it, which in his lifetime belonged to the intestate, as a *donatio mortis causâ*.

When the claim was set up, the administrator assumed that the matter came within the provisions of the Surrogate Courts Act, 10 Edw. VII. ch. 31, sec. 69, sub-sec. 1 of which provides: "Where a claim or demand is made against the estate of a deceased person which, in the opinion of his personal representa-

*To be reported in the Ontario Law Reports.