

purchased other securities also sufficient to produce an income of \$1,200 a year which he transferred to the plaintiff, and entered a memorandum in a private book, as he had also done when he purchased the securities assigned to E., to the effect that the gift was to be deducted from the transferee's share of his estate. Evidence was also given by the testator's solicitor that after the transfer to the plaintiff the testator had said to him that they must now attend to changing the will by a codicil; and the solicitor had suggested redrawing the will which the testator had acceded to, but had almost immediately fallen ill, and the solicitor had never seen him again. He died within a week afterwards.

Held, that the evidence of the above declarations and facts shewing the intention of the testator, was admissible to prove that the transfer of the securities to the plaintiff was intended by the testator to operate as a proportionate ademption of the legacy to her, in the same way as he had provided with regard to the legacy to E.

Martin, K.C., for plaintiff. *Chepley*, K.C., for defendant.

Boyd, C., Robertson, J.]

[Feb. 18.

PATTERSON v. FANNING.

Negligence—Horse at large on highway—Right of action.

The defendant knew that the fences of his field in which he let his horses loose were not in proper condition. Owing to the defective state of the fences the horses escaped from the premises and went upon the highway, and were there startled into running, from the mischievous conduct of a third person, and while running knocked the plaintiff down and injured her.

Held, that the plaintiff had a good cause of action for damages. *Cox v. Burbridge*, 13 C.B.N.S. 430 discussed.

Washington, K.C., for plaintiff. *Lynch Staunton*, K.C. and *Lazier*, for defendants.

Armour, C.J.O., Falconbridge, C.J.]

[Feb. 18.

DEACON v. CHADWICK.

Constitutional law—Administration of justice—Resident of one province sued in another—Jurisdiction—B.N.A. Act.

The Provinces of Manitoba and Ontario are independent provinces so far as the power to make laws in respect of the classes of subjects enumerated in s. 92 of the British North America Act is concerned, among which are property and civil rights in the province and the administration of justice in the province, including procedure in civil matters in the courts of the province; and to neither is any power given to pass laws having any operation outside its own territory; and no tribunal established by either can extend its process beyond its own territory so as to subject either person