

THE COURT allowed the appeal, holding that the appellants were entitled to their deceased's mother's share under the above-quoted section of the Wills Act. It made no difference that the death of Catharine A. Hague occurred before that of the testatrix. The Court consulted the learned Judge, and it appeared that the section had not been brought to his attention and was not present to his mind at the time of giving judgment. The learned Judge agreed that the judgment could not stand, but should be reversed.

As the judgment had been pronounced per incuriam, and there was no real contest made by the respondents, costs of all parties were given out of the fund in controversy.

MAY 7TH, 1914.

GEORGE WHITE & SONS CO. LIMITED v. HOBBS.

*Sale of Goods—Action for Price of Engine Sold—Defects—
Oral Representation of Agent of Vendor—Provisions of
Written Agreement—Notice of Defects—Imputed Know-
ledge of Contents of Written Agreement.*

Appeal by the defendant from the judgment of FALCONBRIDGE, C.J.K.B., 5 O.W.N. 659.

The appeal was heard by MULOCK, C.J.Ex., CLUTE, RIDDELL, SUTHERLAND, and LEITCH, JJ.

T. N. Phelan, for the appellant.

I. F. Hellmuth, K.C., for the plaintiffs, respondents.

THE COURT affirmed the judgment, with a modification, the terms of which are to be agreed upon by counsel or settled by one of the Judges. Costs to be paid by the appellant.