that an order may now be made under the Settled Estates Act authorising the mortgaging of the land.

I think that Thomas himself takes a life estate only and that the rule in *Shelley's Case* does not apply so as to give him any greater estate. The testator has not used the word "heirs" nor has he used any other words as equivalent to "heirs." If Thomas himself leaves him surviving children or remoter issue, then such children or issue will take as tenants in common *per stirpes*. If he leaves him surviving no children or issue of children, then the brothers and sisters named will take. I read this gift over as relating to the death of Thomas. This should be so declared, and the order sought should go for the raising of the money under the Settled Estates Act.

The costs of all parties should be paid out of the money so raised. I direct this in preference to directing the costs to be paid out of the estate, because the application is really one in ease of the owners of this particular parcel, and does not affect the testator's general estate. Myron Ames was properly notified as one of those interested in the gift over. The application does not concern in any way the parcel devised to him.

Hon. Mr. Justice Lennox.   October 13th, 1913.

PAGE AND JAQUES v. CLARK.

5 O. W. N. 143.

Fraud and Misrepresentation—Sale of Farm—Fraud and Conspiracy of Purchasers—Void Agreement — Cancellation — Refusal of Specific Performance—Forfeiture of Deposit—Counterclaim — Damages.

Lennox, J., dismissed action for specific performance of an alleged contract by the defendant to sell his farm to plaintiffs, or for damages, on the broad ground that the plaintiffs were not entitled to any assistance from the Court, because the so-called contract was induced by fraudulent misrepresentations.

E. D. Armour, K.C., and Bartlett, for plaintiffs.

Wigle, K.C., for defendant.

Hon. Mr. Justice Lennox:—The plaintiffs are not entitled to specific performance or damages. If I could find that there was an arrangement honestly brought about by