

tels of the testator; he disposed of all of his "estate and effects" by his will. (2) The farm is vested in John Winchester, Senior Judge of the County Court. (3) The division of the farm is to be made by the persons entitled to it if they can agree. If they do agree, it will be the duty of the County Court Judge to sanction that agreement and give effect to it by executing the necessary conveyances. If they do not agree, the Judge, in carrying out the trust imposed upon him, must distribute, and in doing this he may divide the property into parcels. If that cannot be done so as to have a proper and equitable division, he may sell the land and divide the proceeds. (4) If the Judge accepts the trust, the question of an appeal from his decision may never arise. (5) The share of Stephen passes to the three brothers living at the time of the death of their mother, in equal shares. Order declaring accordingly; costs of all parties out of the estate. L. F. Heyd, K.C., for the applicants. K. F. Mackenzie, for Thompson Pherrill and Hannah Pherrill.

JONES V. NIAGARA ST. CATHARINES AND TORONTO R.W. CO.—
FALCONBRIDGE, C.J.K.B.—JULY 24.

Negligence—Collision between Automobile and Street Railway Car—Failure to Display Light and Sound Gong—Absence of Contributory Negligence—Findings of Fact of Trial Judge—Damages.—Action for damages for injuries to the plaintiff's automobile by a collision with a car of the defendants driven by electricity upon a tramway laid in the highway, owing, as the plaintiff alleged, to the negligence of the defendants' servants in charge of the car. The action was tried without a jury at St. Catharines. The learned Chief Justice (in a written judgment) said that the case presented the conflict of testimony usual when it is asserted that an accident was caused by the negligence of a railway company in not ringing a bell or having proper lights. After reviewing the testimony, the Chief Justice said that his finding must be in favour of the plaintiff; negligence was proved in respect of the absence of the head-light and the failure to sound the gong; there was no contributory negligence. Judgment for the plaintiff for \$1,000 and costs. A. C. Kingstone and F. E. Hetherington, for the plaintiff. G. F. Peterson, for the defendants.