then pay the others off. But, in case such an arrangement cannot be effected, then my executors . . . shall sell the same and divide the proceeds equally among my children (John excepted)." (5) He also gave a specific legacy of an organ.

As a fact, the testator did not own the south-west quarter of lot 3 in the 4th, or any part of it. but he did own the south half of the north half of the lot. The executors found it necessary to sell the land to pay debts, and, the purchaser objecting to the title, an order was made under the Vendors and Purchasers Act declaring that the executors had power to sell, but directing the concurrence of the Official Guardian to be obtained. The land was sold, and, after payment of debts, there remained $1,258, which was paid into Court. The widow elected to take as her distributive share one-third of the moneys in Court.

The widow applied for an order declaring the construction of the will and for payment out of Court to her of her share of the moneys.

Casey Wood, for the applicant.

F. W. Harcourt, K.C., for the infants.

RIDDELL, J.:—While it is well decided and beyond question in Ontario that if by a will a testator devises land by a description which exactly fits land which he owned, no evidence can be given that he meant to devise some other or a greater amount of land (Lawrence v. Ketchum, 28 C. P. 406, 4 A. R. 92), the law is not quite so plain in cases in which the testator has no land exactly corresponding to the description, but has land whose description corresponds in part to the description in the devise.

There are two lines of cases in our Courts—and I do not need to go beyond our own Courts in the decision of this matter; in one line of cases it has been held that no extrinsic evidence can be given to explain and modify the devise; in the other, such evidence has been received.

In the former list appear: Summers v. Summers, 5 O. R. 110 . . . ; Hickey v. Stover, 11 O. R. 106 . . . ; Re Bain and Leslie, 25 O. R. 136 . . .

In the latter list are Doe Lowry v. Grant, 7 U. C. R. 125 . . ; Re Shaver, 6 O. R. 312 . . . ; Hickey v. Hickey, 20 O. R. 371 . . . ; Doyle v. Nagle, 24 A. R. 162 . . . ; Re Harkin, 7 O. W. R. 840; McFayden v. McFayden, 27 O. R. 598. . .

The principle underlying the decisions is that the powers of the Court in giving effect to what they may see upon the face of the will was the real intention of the testator, are not unlimited—"the