

FALCONBRIDGE, C.J.K.B., in a written judgment, said that he was of opinion that there was not the corroboration of the defendant's statement which the law required. The Chief Justice did not accept the entry in the defendant's diary as corroboration. In *In re Jelly* (1903), 6 O.L.R. 481, the Court accepted the claimant's books of account as corroboration, but the books were vouched in numerous entries by the production of cheques payable to the testator's order and endorsed by him, and in other cases by oral testimony. The general correctness of the books was shewn, therefore, by other evidence.

Here there was only the bald entry in the diary, under Thursday the 14th February, 1918: "At Foster's all night. Gave me \$5,000. Raining." The part of the entry underlined had the appearance of being written in after the other words, and the defendant admitted that the entry was made at two different times, on the same day.

The question was not whether the defendant was to be believed or not. He was a man of excellent reputation, and he gave his evidence quite satisfactorily, as far as demeanour was concerned.

His good character and the friendly relations subsisting between him and the testator were not sufficient corroboration.

Counsel for the plaintiffs raised the point that, as to the \$5,000, it was a debt, and could not be released by parol and without consideration. It was not necessary to go into that.

On both branches of the case, therefore, the defendant failed. It was singular that he signed an acknowledgement of the \$2,000 debt without inserting in it the extended term of credit which he now claimed.

Judgment for the plaintiffs for the \$5,000 and \$2,000, less the sum of \$200 paid on the 4th February, and interest, to be computed by the Local Registrar, without costs.

KELLY, J.

DECEMBER 6TH, 1919.

RE BARBER AND WALKER.

Vendor and Purchaser—Agreement for Sale of Land—Title—Evidence as to Heirs and Next of Kin of Deceased Owner—Death of Owner and Wife and Children in same Accident—Presumption of Survivorship—Question of Fact—Burden of Proof—Settlement with Next of Kin of Wife—Application under Vendors and Purchasers Act.

Motion by a vendor of land, under the Vendors and Purchasers Act, for an order declaring that the purchaser's objections to the title were invalid, and that the vendor could make a good title.