LENNOX, J.   FEBRUARY 4TH, 1918.

*RE WAUGH.

*RE SCOTT AND SCOTT.

Will—Construction—Power of Executor to Sell Lands—Trust for Sale—Surviving Executor—Trustee Act, secs. 2 (q), 44, 49—Devolution of Estates Act, secs. 14, 15, 19, 21, 23—Sale for Purpose of Distribution—Persons Entitled under Will—Brothers and Sisters "or their Heirs"—Period of Ascertainment—Brothers of Half Blood—Heirs Living at Time of Distribution—Per Stirpes Division.

Motion by Henry Scott, surviving executor of the will of Thomas Waugh, deceased, for an order declaring that the applicant was able to make a good title to lands of the deceased, which the applicant had agreed to sell to Andrew H. Scott; and also for an order determining questions as to distribution of the estate, arising upon the terms of the will.

The motion was made under the Trustee Act and the Vendors and Purchasers Act.

The motion was heard in the Weekly Court at London.

R. G. Fisher, for the applicant.

J. M. McEvoy, for the purchaser, and for the brothers and sisters of the wife of the deceased or their heirs.

LENNOX, J., in a written judgment, set out the relevant provisions of the will of Thomas Waugh, deceased, as follows:—

"I hereby will and bequeath to my beloved wife Janet Scott Waugh solely during the entire period of her natural life the whole of my real and personal property . . . that is to say the farm on which I now live and everything pertaining to it as well as all moneys debts or whatever else is mine. . . . For various causes it may be unsuitable for my wife to live on the farm. She may if she deems it to be for her greater convenience with the advice and management of my executors dispose of the whole or part of the farm . . . to invest in other property. Provided always that whether this may be done or not the property belonging to her as coming from me shall at her death be disposed of in any way satisfactory to my executors so that all my brothers and sisters together with all my wife's brothers and sisters or their heirs shall have personally an equal in it share and share