

Privy Council Appeal No. 18 of 1921.

Christian Martin Crone Rovsing - - - - *Appellant*

v.

The Perpetual Trustee Company, Limited, and others - - *Respondents*

FROM

THE SUPREME COURT OF NEW SOUTH WALES.

JUDGMENT OF THE LORDS OF THE JUDICIAL COMMITTEE OF THE
PRIVY COUNCIL, DELIVERED THE 16TH NOVEMBER, 1922.

Present at the Hearing :

VISCOUNT HALDANE.

LORD SHAW.

LORD PARMOOR.

LORD WRENBURY.

LORD CARSON.

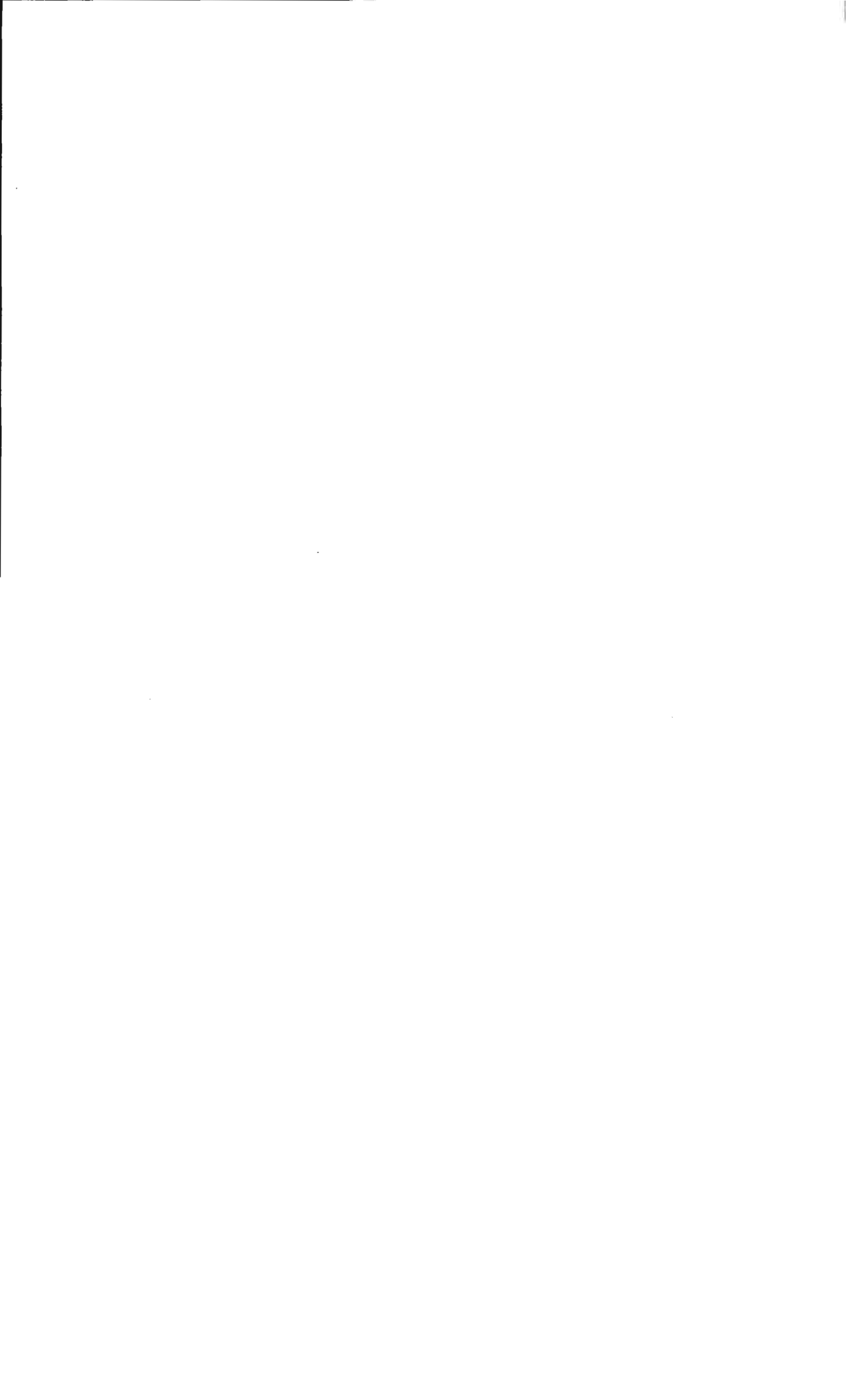
[*Delivered by* VISCOUNT HALDANE.]

Their Lordships do not desire to hear any argument on behalf of the respondents.

The appellant is a gentleman who feels strongly that full justice has not been done to his claim ; but whether he is right or wrong is a matter on which their Lordships could only express an opinion if they had before them materials which rendered it legitimate to do so. There are no such materials proved in evidence of which their Lordships can take judicial cognizance, and it is therefore unnecessary for them to express any opinion and, indeed, their Lordships are not in a position to do so. There is only one question with which they can deal, namely, the construction of the will of Mrs. Rovsing of the 6th March, 1905. There is no other document which could be treated as testamentary by the law which applies in New South Wales in the case of a devise of land, and therefore the only document their Lordships have to look to is the will alone. That will has been read, and

their Lordships have heard the reasons of the learned Judge who decided this case in the Supreme Court of New South Wales, Mr. Justice Owen, and they think that the conclusion at which he arrived was the correct one. Their Lordships are of opinion that the testatrix did not intend the appellant to take an absolute interest in the Sydney property in question, but that she intended that his interest in that property should cease either on his re-marriage or on his death without having re-married, and their Lordships are also of opinion that the will gives the property on the appellant's re-marriage or death to the respondents the sisters and brothers of the testatrix. The only power of appointment given to the appellant is a special one, which can make no difference.

For these reasons their Lordships will humbly advise His Majesty that this appeal be dismissed with costs.



In the Privy Council.

CHRISTIAN MARTIN CRONE ROVSING

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THE PERPETUAL TRUSTEE COMPANY, LIMITED,
AND OTHERS.

DELIVERED BY VISCOUNT HALDANE.

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