

ever intentions the testator may have had towards the plaintiff, he has failed to express them by any testamentary instrument.

After the testator's death the plaintiff claimed to be entitled to receive a balance of several months' wages due to her, and this has been paid. The claim to the ownership of the property was not put forward until some time later.

I have no doubt that at different times the testator has expressed his intention to devise the farm in question to the plaintiff, but I have a great deal of doubt as to there ever being a contract to do so.

There are many circumstances of suspicion attending the plaintiff's claim. She remained in the testator's employment, nominally as his housekeeper, and undoubtedly in receipt of a stipulated monthly wage. In the letters produced there is no suggestion of giving the farm. The plaintiff says there was another letter, in which this was set forth, but that she has destroyed it. The corroborative evidence given by Mr. Owens I accept to the fullest extent, but it falls far short of establishing a contract. It only shews an intention at that time to make a will. The evidence of Haines Elmer, the nephew, requires to be accepted with great caution; and outside of this there is no corroboration of the plaintiff's own story. It is so easy to turn a statement of an intention to devise into a contract to devise, that the evidence here lacking in precision and convincing force falls very short of that standard set by the Divisional Court in *Cross v. Cleary*, 29 O. R. 542, where it is said that such an agreement as that set up by the plaintiff "must be supported by evidence leaving upon the mind of the Court as little doubt as if a properly executed will had been produced and proved before it."

Not only does the evidence, even if accepted, fail to establish and corroborate a bargain, but I have the greatest difficulty in giving it credence.

I think this case is, in this aspect, quite like *Maddison v. Alderson*, 8 A. C. 467, and that there was not in truth a contract.

Other difficulties also confront the plaintiff. The contract is not in writing, and the Statute of Frauds would afford a complete answer to a claim for specific performance. She would then be entitled to recover upon a *quantum mer-*