

the true construction of the clause marked "sixthly," falls to be divided and distributed as directed by the said clause.

If this clause upon any proceedings that may be taken is declared not to form any part of the testator's will, this is not intended to be and is not an adjudication upon the rights of the parties. All I am called upon and am entitled to do is to construe the will as it appears in the probate.

Costs out of the estate—executors' costs as between solicitor and client.

TEETZEL, J.

MAY 19TH, 1910.

MOFFATT v. GLADSTONE MINES LIMITED.

*Author—Report of Mining Engineer — Unrestricted Publication
by Author—Common Law Rights—Divestment—Acts of Broker—Ratification—Injunction.*

Action for damages and for an injunction restraining the defendants from issuing, publishing, or distributing copies of a report on two mining claims owned by them, prepared by the plaintiff, a mining engineer.

W. H. Irving, for the plaintiff.

R. S. Cassels, for the defendants.

TEETZEL, J.:—The plaintiff prepared the original report for one Warden, to assist him in forming a syndicate to purchase the claims. The report and five or six copies, signed by the plaintiff, were given to Warden with the intention that he should circulate them among persons likely to join the proposed syndicate.

After disappointment in the formation of the syndicate which he had in view when the report was obtained, Warden continued to use the report with the plaintiff's consent, and eventually formed a syndicate which organised the defendant company. It was part of the syndicate agreement that the defendant company should be organised with a capital of \$1,000,000, divided into 1,000,000 shares of \$1 each, and that the company should purchase the two mining claims by the issue to the vendor of 500,000 fully paid-up shares and \$30,000 in cash to be derived from the sale of 100,000 of the balance of the shares.