

short of an assignment of those moneys, . . . Appeal dismissed with costs.

BTITTON, J., gave reasons in writing for the same conclusion, referring to *Hall v. Prittie*, 17 A. R. 310.

NOVEMBER 16TH, 1903.

C.A.

STEWART v. WALKER.

Will—Action to Establish—Evidence of Communications by Deceased to Solicitor—Privilege—Admissibility—Lost or Destroyed Will—Proof of Execution—Proof of Contents—Presumption of Destruction Animo Revocandi—Rebuttal—Declarations of Deceased—Evidence of Principal Beneficiary—Corroboration—Evidence of admissions by Defendant Opposing Will—Cross-examination.

Appeal by the defendant the Attorney-General for Ontario from judgment of MACMAHON, J., 1 O.W. R. 489, in favour of plaintiff in an action brought to establish the will of John Alexander McLaren, made on 28th June, 1897. The deceased was illegitimate and unmarried. The plaintiff was the son of his half-sister (by blood, though not in law). After the death in 1902 no will was found, and an escheat was claimed by the Crown.

McMAHON, J., held that the making of the will was established, and ordered that a copy of it produced by plaintiff should be admitted to probate.

The appeal was heard by MOSS, C.J.O., OSLER, MACLENNAN and GARROW, JJ.A.

G. F. Shepley, K.C., and A. B. Aylesworth, K.C., for the appellant.

G. H. Watson, K.C., and Grayson Smith, for plaintiff.

W. R. Riddell, K.C., for defendant Minnie Hamilton.

J. Lorn McDougall, Ottawa, for defendant Eliza McIntyre.

S. H. Blake, K.C., for the other defendants.

Moss, C.J.O.—One objection taken on behalf of the appellant was to the rejection of the evidence of Mr. Francis A. Hall, solicitor, with regard to certain communications said to have passed between him and the deceased during the existence between them of the relationship of solicitor and