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APPELLATE DIVISION.

FIRST DIVISIONAL COURT. JUNE 21ST, 1916.

BEATTIE v. BEATTIE.

Judgment—Motion to Vary Minutes—Will—Undue Influence —Secret Trust—Will Established Subject to Attack upon Legacy by Fresh Action.

Motion by the plaintiff to vary the minutes of the judgment of this Court pronounced on the 17th April, 1916.

The motion was heard by GARROW, MACLAREN, MAGEE, and HODGINS, JJ.A.

T. G. Meredith, K.C., for the plaintiff.

W. R. Meredith, for the defendant C. H. Beattie, the appellant.

Sir George Gibbons, K.C., for the defendants Agnes and T. B. Oliver.

P. H. Bartlett, for the defendant Louise Burwell.

W. Lawr, for the other defendants.

GARROW, J. A., read the judgment of the Court. He said that the minutes as settled were in exact accordance with the judgment as pronounced. What was really required by the motion was either a different judgment or a re-argument of the question of undue influence.

[The action was brought to establish the will of Thomas Beattie, deceased. The judgment at the trial upheld the will, and the judgment of this Court upon appeal was that the appeal should be dismissed, subject to the right of the appellant, by a fresh action, to attack the plaintiff's legacy as having been obtained by undue influence, and subject also to a question as to the existence of a secret trust.]

The deliberate opinion of the Court upon the hearing was, that, if the question of secret trust was to remain open, it was no hardship upon any one that the question as to undue influence should