

The
Ontario Weekly Notes

VOL. VII. TORONTO, SEPTEMBER 25, 1914. No. 3

APPELLATE DIVISION.

SEPTEMBER 21ST, 1914.

*MURPHY v. LAMPHIER.

Will—Action to Establish—Evidence—Onus—Testamentary Capacity—Failing Memory and Senile Decay—Procurement of Will by Others—Stealth, Haste, and Contrivance—Duty of Solicitor Called in to Prepare Will—Revocation of Former Wills—Executors Propounding Will—Costs—Discretion—Appeal.

Appeal by the plaintiffs from the judgment of BOYD, C., 31 O.L.R. 287, 6 O.W.N. 238.

The appeal was heard by MEREDITH, C.J.O., MACLAREN, MAGEE, and HODGINS, J.J.A.

J. G. O'Donoghue, for the appellants.

J. W. Bain, K.C., and A. Ogden, for the defendants, the respondents.

The judgment of the Court was delivered by MEREDITH, C.J.O.:— . . . Agreeing, as we do, with the reasoning of the Chancellor and his conclusion that the appellants failed to satisfy the onus which rested upon them of establishing the testamentary capacity of the deceased, it would serve no good purpose to review the evidence or to discuss the grounds of the decision.

The learned counsel for the appellants pointed out one or two errors in the Chancellor's statement of the facts, but they are unimportant and in no way affect the soundness of his conclusions upon the facts.

*To be reported in the Ontario Law Reports.

4—7 O.W.N.