

It would be well to verify the weight of the small plate: to the man who lifted and strained himself it seemed half a ton: to the foreman who looked on, about 300 pounds; the truth probably lies between.

JANUARY 23RD, 1914.

*LOFTUS v. HARRIS.

Will—Validity—Failure to Prove Testamentary Incapacity or Undue Influence—Solicitor for Testatrix Named as Principal Beneficiary—Suspicion—Removal of—Onus—Absence of Independent Advice—Affirmance of Will after Lapse of Time—Allowance for Improvements Made on Land by Expectant Devisee.

Appeal by the plaintiff from the judgment of the Judge of the Surrogate Court of the County of York upon a contestation by the defendant of the will of Finella F. Harris, the wife of the defendant, propounded by the plaintiff as executor. The plaintiff had been the solicitor and adviser of the testatrix, and took the principal benefit under the will, which was drawn by another solicitor. A former will had been made in favour of the defendant. By the judgment appealed from probate of the will was decreed except as to the devises and bequests to the plaintiff for his own benefit.

The appeal was heard by BOYD, C., RIDDELL, MIDDLETON, and LEITCH, JJ.

E. E. A. DuVernet, K.C., for the plaintiff, the appellant.

W. D. McPherson, K.C., for the defendant, the respondent.

The judgment of the Court was delivered by BOYD, C.:—By will dated the 16th October, 1910, the testatrix gives all her estate, worth about \$6,000, to the plaintiff, a barrister, absolutely, save as to a bequest of personal effects to Rosie White, and \$300 to be allowed to John Watkins in discharge of a debt. The will is on a form, with special disposition, which is short and simple, filled in.

This will was drawn up from directions of the testatrix by Mr. Lewis, K.C., who is one of the witnesses.

*To be reported in the Ontario Law Reports.