

*Held*, also, that though the "Elliott" may have violated the statutory rule requiring her to slacken speed or stop and reverse if necessary when approaching another vessel so as to involve risk of collision, yet as the omission to do so would have led to no injurious consequences if the "Cuba" had acted in conformity with her signal, she was not for that reason responsible for the accident. R. S. C. ch. 79, s. 5.

The rule as to steam vessels keeping to their starboard side of a narrow channel does not override the general rule of navigation. The "Leverington" (11 P. D. 117), followed.

Appeal dismissed with costs.

*Mellish*, for the appellant.

*Harris, Q.C.*, for the respondents.

Nova Scotia.]

McLAUGHLIN v. McLELLAN.

9 Dec., 1896.

IN RE ESTATE OF JOHN A. P. McLELLAN, deceased.

*Will—Execution of—Testamentary capacity—Mental condition of testator.*

In proceeding before a Court of Probate to prove a will in solemn form, evidence was offered to show that the testator when he gave instructions for the preparation of the will and when he executed it, was not possessed of testamentary capacity.

*Held*, affirming the decision of the Supreme Court of Nova Scotia (28 N. S. Rep. 226) that although the testator suffered from a disease that induced drowsiness or stupor, and when he gave the instructions and executed the will was in a drowsy condition, and there was difficulty in keeping his mind in a state of activity so as to ascertain what his wishes were, yet as it appeared that he understood and appreciated the instructions he gave and the document itself when read over to him, it was a valid will.

Appeal dismissed with costs.

*Mellish* for the appellant.

*Laurence* for the respondents.

Ontario]

CITY OF TORONTO v. C. P. RY. CO.

9 Dec., 1896.

*Municipal corporation—By-law—Assessment—Local improvements—Agreement with owners of property—Construction of subway—Benefit to lands.*

An agreement was entered into by the corporation of Toronto