

If the testatrix meant that the will of 1910 was to stand if it was valid as altered, the will of 1916 must be admitted to probate; for the earlier will was not valid as altered, and the conditions upon which the second will was to come into operation was fulfilled—"the one stroked over will not stand." An instrument can validly be made which is to take effect as a will only on the happening of a contingency named in it: *Damon v. Damon* (1864), 8 Allen (Mass.) 192.

In its natural signification, the expression "the stroked one" described the original will as "stroked," and not the original will without the alterations; and it seemed to be reasonably clear that the testatrix used the expression in this natural sense.

There should be judgment declaring that the will of 1916 was the true last will of the testatrix and directing that it be admitted to probate; costs of all parties to be paid out of the estate.

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LATCHFORD V. CHARTRAND—LENNOX, J.—NOV. 25.

*Contempt of Court—Committal of Defendant—Purging Contempt—Undertaking—Discharge from Custody.*—Motion by the defendant for his discharge from custody, upon the ground that he had purged the contempt for which he was committed to gaol on the 9th September, 1918, and had undertaken to refrain from interfering with the plaintiff's property and be of good behaviour in the future. The motion was heard in the Weekly Court, Ottawa. LENNOX, J., in a written judgment, said that the defendant had not only greatly depreciated the value of the plaintiff's property by destroying valuable timber and trees thereon, but had also put the plaintiff to a considerable outlay in money for legal proceedings and otherwise, which the defendant was not financially in a position to make good. He was examined before the learned Judge in open Court; he appeared to regret his unjustifiable and unlawful conduct; he distinctly promised to keep absolutely away from the property of the plaintiff, and had filed an undertaking to that effect. He was warned by the learned Judge, at the hearing of the motion, and was now again warned, that if, after regaining his liberty, he should misconduct himself, he would not be so leniently dealt with. Relying upon the defendant's apparent penitence and his oral and written undertaking, the learned Judge directed the issue of an order for the discharge of the defendant from the common gaol of the County of Carleton on Monday the 2nd December, 1918. J. W. Gauvreau, for the defendant. E. J. Daly, for the plaintiff.