

THE  
ONTARIO WEEKLY REPORTER.

(TO AND INCLUDING NOVEMBER 28TH, 1903.)

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VOL. II.      TORONTO, DECEMBER 3, 1903.      No. 41

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BRITTON, J.

NOVEMBER 21ST, 1903.

WEEKLY COURT.

RE WALTON AND NICHOLS.

*Will—Construction—Devise—Intention—Supplying Words to  
Carry out—Estate—Fee Simple or Estate Tail.*

Petition by Charles E. Walton under the Vendors and Purchasers Act upon a question of the title of the petitioner to certain land under the will of Charles Walton. The testator by his will divided his farm into two parcels: (1) the south 15 acres with all the buildings; (2) the residue of the farm. The first part he devised to his wife for life or during widowhood, and then to his adopted son, the petitioner. No question arose as to this part. The residue of his farm he gave to his wife until the adopted son should arrive at the age of 21, unless the wife should marry before that date. Then, in the 5th paragraph of the will, the testator provided for the event of the death of the petitioner before attaining the age of 21, and without leaving issue of his body, or after arriving at the age of 21 without leaving issue of his body, in which event there was a gift to Charles Ewings and Wellington Ewings. In the 6th paragraph the testator created a charge in favour of his wife, from the time of the adopted son attaining the age of 21, or from the time the adopted son, had he lived, would have attained that age, of a rent of £15 a year.

H. J. Scott, K.C., for petitioner.

W. E. Middleton, for the purchaser.

BRITTON, J., held that the will must be read as if it contained the words "or dying after arriving at such age and during the lifetime of my wife." The testator did not intend that Charles Ewings and Wellington Ewings should get the