

the track of the Grand Trunk Ry. Co. but, at the request of the latter, imposed the condition that the masonry work of such under crossing should be sufficient to allow of the construction of an additional track on the line of the Grand Trunk Ry. Co. No evidence was given that the latter company intended to lay an additional track in the near future, or at any time. The James Bay Ry. Co., by leave of a judge, appealed to the Supreme Court of Canada from the part of the order imposing such terms, contending that the same was beyond the jurisdiction of the Board.

Held, 1. The Board had jurisdiction to impose said terms.

2. Per SEDGEWICK, DAVIES and MACLENNAN, JJ. that the question before the Court was rather one of law than of jurisdiction, and should have come up on appeal by leave of the Board or carried before the Governor-General in Council.

Appeal dismissed with costs.

Barwick, K.C., and *G. F. Macdonnell*, for appellants. *Chrysler*, K.C., for respondents. *A. G. Blair*, for the Board.

Ont.]

CONNELL v. CONNELL.

[April 14.

Will—Promoter—Evidence—Subsequent conduct of testator—Residuary devise—Trust.

In proceedings for probate by the executors of a will which was opposed on the ground that it was prepared by one of the executors who was also a beneficiary there was evidence, though contradicted, that before the will was executed it was read over to the testator who seemed to understand its provisions.

Held, IDINGTON, J., dissenting, that such evidence and the fact that the testator lived for several years after it was executed and on several occasions during that time spoke of having made his will, and never revoked nor altered it, satisfied the onus, if it existed, on the executor to satisfy the Court that the testator knew and approved of its provisions.

Held, also, that where the testator's estate was worth some \$50,000, and he had no children, it was doubtful if a bequest to the propounder, his brother, of \$1,000 was such a substantial benefit that it would give rise to the onus contended for by those opposing the will.

Appeal dismissed with costs.

Watson, K.C., for appellants. *Whitney*, K.C., *French*, K.C., and *Middleton*, for respondents. *Fisher*, for widow.