

any Deputy Head, officer, or employee in the Civil Service of Canada, or to any other person permanently employed in the public service, do not apply to a reporter on the Debates' staff of the House of Commons. (Affirmed on appeal to Supreme Court, 19th October, 1897.)

W. D. Hogg, Q.C., for claimant.

E. L. Newcombe, Q.C., (D.M.J.) for defendant.

COURT OF APPEAL.

LONDON, 14 May, 1897.

Before LINDLEY, L.J., LOPES, L.J., RIGBY, L.J.

OGILVIE v. LITTLEBOY. (32 L.J.)

Setting aside voluntary deed—Burden of proof—Mistake—Intention not carried out.

The object of this action was to set aside two voluntary deeds which had been executed by the plaintiff, Mrs. Ogilvie, with the object of founding two charities in London and Suffolk.

She did not ask for rectification, but desired to have the deeds entirely set aside, on the ground that they did not carry out her intentions, inasmuch as they did not reserve to her absolute control of the capital and income during her life, nor protect her from liability to account, especially to the Charity Commissioners, nor give her a power of sale free from the interference of the Charity Commissioners; and, further, that she had not been informed of a difficulty which might arise in the appointment of new trustees through the possible refusal of the Society of Friends to take part in such appointment.

Byrne, J., dismissed the action with costs, and the plaintiff appealed.

Their Lordships dismissed the appeal with costs. They said that voluntary deeds of gift could not be set aside simply because the donors wished that they had not made them and would like to have back the property given. Where there was no fraud, no undue influence, no fiduciary relation between donor and donee, no mistake induced by those who derived any benefit by it, a gift, whether by mere delivery or by deed, was binding on the donor. Where all those elements were absent, there was no general principle of equity that the burden was on the donee to