

HON. SIR G. FALCONBRIDGE, C.J.K.B. NOVEMBER 4TH, 1912.

OTTAWA WEEKLY COURT.

RE ANNE CAMPBELL, DECEASED.

4 O. W. N. 221.

Will—Construction—Tenants in Common or Joint Tenants—Question as to Which—Costs.

Motion to determine the question whether John Campbell took an interest as joint tenant or tenant-in-common under the following clause in testatrix' will: "I hereby bequeath unto my nephew, John Campbell, and my sister, Martha Campbell, jointly, a piece of land (description), containing 20 acres of land, more or less, and they are to pay my nephew, George Campbell, \$200 within 3 years after my decease." John and Martha Campbell, aforesaid, lived together on a farm adjoining the parcel devised, until the latter's death, and the \$200 referred to above, was paid by them to George Campbell.

FALCONBRIDGE, C.J.K.B., *held*, that John Campbell took a joint interest, and not a tenancy-in-common, of the lands devised.

Case v. Owen, 139 Ind. 22, and *Davis v. Smith*, 4 Harrington (Del.), approved.

Costs to all parties out of estate.

Motion by John W. Campbell, a devisee under the will of the late Anne Campbell, upon the return of an originating notice, for an order construing a certain question arising under the terms of said will.

W. S. Hall, for John W. Campbell.

R. A. Pringle, K.C., for administrators of Martha S. Campbell.

Donald W. Fraser, surviving executor of Anne Campbell, though duly notified, did not appear on the motion.

HON. SIR GLENHOLME FALCONBRIDGE, C.J.K.B.:—The question to be decided arises under the will of said Anne Campbell, wherein, after certain specific bequests, the following paragraph appears:—

"I hereby bequeath unto my nephew, John Campbell, and my sister, Martha Campbell, jointly, a piece of land situate west side of the south part of Lot No. 5 in the ninth concession of East Hawkesbury, containing twenty acres of land, more or less, and they are to pay my nephew George Campbell, the sum of two hundred dollars within three years after my decease, and the residue of my estate I give and bequeath to my sister, Martha Campbell."