

HANNAH v. ROBSON (No. 1)—FALCONBRIDGE, C.J.K.B.—Nov. 22.

Will—Action to Establish—Proof in Solemn Form—Costs.]—Action to establish the will of Elizabeth Robson, tried without a jury at Whitby. FALCONBRIDGE, C.J.K.B., in a written judgment, said that the will was proved in solemn form, and there should be judgment for the plaintiff. On consideration of all the circumstances and the cases on the subject, the learned Chief Justice thought the defendant might consider himself fortunate if he were not ordered to pay costs. But, inasmuch as he refrained from calling witnesses, if he had any, he should be allowed costs, fixed at \$75, for which credit should be given him in the action on the promissory notes (see *infra*). The infants' costs, fixed at \$75, should be paid out of the estate. J. E. Farewell, K.C., and F. M. Field, K.C., for the plaintiff. T. R. Ferguson, K.C., for the defendant. H. R. Frost, for the widow and infant children of Norman Robson, deceased.

HANNAH v. ROBSON (No. 2)—FALCONBRIDGE, C.J.K.B.—Nov. 22.

Promissory Notes—Contest as to Ownership—Costs.]—An action on two promissory notes, tried without a jury at Whitby. FALCONBRIDGE, C.J.K.B., in a written judgment, said that the only question reserved was the question of costs. The defendant contested the case entirely at his own risk—principally as to the ownership of the notes—and perhaps he ought to pay full costs, but, having regard to all the circumstances, the plaintiff's costs of the action to be paid by the defendant should be fixed at \$100. Judgment for the plaintiff for \$2,600, with interest on the \$1,600 note at 6 per cent. and on the \$1,000 note at 5 per cent. to judgment. Credit to be given to the defendant for a \$100 legacy and interest from the date of the death of the testatrix and for \$75 costs awarded to him in the action to establish the will (*supra*). J. E. Farewell, K.C., and F. M. Field, K.C., for the plaintiff. T. R. Ferguson, K.C., for the defendant.