

JANE LIDSTONE ..... APPELLANT;

1931

AND

\*Feb. 17, 18

19.

\*May 11.

WILLIAM NELSON McWILLIAMS  
AND JAMES B. CHAMPION, EXECUT-  
ORS OF THE LAST WILL AND TESTAMENT  
OF ALFRED McWILLIAMS, DECEASED... } RESPONDENTS.

ON APPEAL FROM THE SUPREME COURT OF PRINCE EDWARD  
ISLAND

*Will—Validity—Testator's knowledge and approval of contents—Costs*

APPEAL from the judgment of the Supreme Court of  
Prince Edward Island *in banco* (1).

The present appellant caused a citation to be issued out of the Probate Court calling upon the present respondents, who were the executors named in the will of Alfred McWilliams, deceased, and to whom had been granted probate in common form, to prove the will in solemn form. Palmer, P.J., by whom the matter was heard, ordered that the will be set aside and the probate thereof rescinded. The Supreme Court of Prince Edward Island *in banco* (1) reversed the judgment of Palmer, P.J., and ordered that his order rescinding the grant of probate be cancelled, and that the will be established.

On the appeal to the Supreme Court of Canada, after hearing the arguments of counsel, the Court reserved judgment, and on a subsequent day delivered judgment dismissing the appeal. The question to be determined was, whether or not the testator, when he executed the will, knew and approved of its contents. Written reasons were delivered by Lamont J., with whom the other members of the Court concurred, in which he held, on the evidence, that the propounders of the will had affirmatively established that the testator both knew and approved of the contents of the will. It was ordered that there should be no costs throughout, as the Court was of opinion that, had the respondent McWilliams gone into the witness box at

\*PRESENT:—Duff, Newcombe, Rinfret, Lamont and Cannon JJ.

(1) (1930) 1 M.P.R. 350.