

IN THE MATTER of the Family
Protection Act 1955

AND

IN THE MATTER of the Estate of
CLIFFORD WILLIAM DEAN
late of Christchurch,
deceased

BETWEEN RUSSELL JOHN DEAN of
Christchurch, Fitter

Plaintiff

A N D ESNE MAISIE DEAN of
Christchurch, Widow,
LYNDA HELEN MCKENZIE-
SIMPSON of Loburn, Married
Woman and DAVID RAYMOND
HASTIE of Christchurch,
Chartered Accountant, as
executors of the will of
the abovenamed deceased

Defendants

**NOT
RECOMMENDED**

Hearing: 22 June 1987

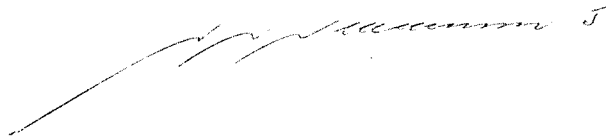
Counsel: A.J. Forbes for Plaintiff
K.G. Hales for Defendants
G.H. Nation for E. Dean
A.W. Robinson for Mrs Simpson

ORAL JUDGMENT OF WILLIAMSON J.

A preliminary question has arisen in relation to the claim under the Family Protection Act 1955. It concerns notice given by Counsel for one of the parties requiring cross-examination of Mr Bowron, the solicitor for the deceased. As I understand the position notice has been properly given but opposition is taken to the nature of the evidence which it is proposed that the witness will be asked to give.

Counsel for Mrs Simpson, who seeks to call the evidence by way of cross-examination, says that the evidence relates to matters in Mr Bowron's affidavit concerning the transfer of a property at Lake Alexandrina and the valuation of that property. He argues that these matters are relevant in order to understand the Testator's reasons for the will in which no provision was made for the Plaintiff. Objection is made because it is submitted that these matters are not within the ambit of reasons for the absence of provision and indeed that they may at this stage be prejudicial to the Plaintiff who has no opportunity to produce evidence of value at the appropriate time.

In my view the evidence may have relevance provided it is restricted to cross-examination relating to matters raised in the affidavits of Mr Bowron. Otherwise clearly this evidence should have been led by way of affidavit. On that basis and provided the evidence is within the ambit of cross-examination restricted to the two matters raised, I agree that that evidence should be given.

A handwritten signature in cursive script, appearing to read "J. L. Simpson", is written across the lower right portion of the page.

Solicitors:

Izard & Loughnan, Christchurch, for Plaintiff

Helmore Bowron & Scott, Rangiora, for Defendants