posed that a similar case was pending in the Privy Council. Eventually he ordered the will to be admitted to probate with the omission of the word 'forty' wherever inserted. Sir James Hannen does not appear to have had any hesitation as to the right course to pursue. He said that the verdict of the jury had disposed of the whole matter, and referred to the case of *Fulton* v. *Andrew*, 44 Law J. Rep. P. & M. 17, in the House of Lords as an authority. This case cannot, however, be said to settle the law on the subject satisfactorily. It is true the learned lords were of opinion that a certain residuary clause might be omitted from the probate; but their arguments are mainly addressed to some imperfections in the form of proceeding. It is possible that Sir James Hannen thought it best not to attempt to generalize. The subject is one which it is difficult to put in comprehensive language, and which, when so put, is very apt to mislead. At the same time, when all the facts are ascertained by a verdict, it is not very difficult to say on which side of the line the case falls. In this instance the rejection of the words in question seems to have been rightly allowed.

The matter is apt to be a little confused by the fact that a solicitor and counsel were employed to make the will. For any mistake made by them in their art or mode of carrying his intention into legal effect, the testator would, doubtless, be held responsible himself; but in regard to the word 'forty,' they were only in the position of amanuenses? They had no authority to insert the word 'forty' in the will at all. Suppose the testator had dictated his will to his valet, and this worthy, believing he knew the number of shares belonging to his master, wrote 'all my forty shares,' when the testator said, 'all my shares,' would the fact that the testator signed the document without reading it, bring about a result which was very far from the testator's intentions? Suppose the converse case, that the testator dictated 'forty of my shares,' and the amanuensis wrote, through carelessness, 'my shares,' the forty, although it can be abstracted from the will, cannot be inserted. Nothing but the attested signature of the testator can make a word part of a will, but the proof that a word was inserted by mistake may take it out of a will. In other words, the Probate Court cannot make a man's will for him, but it can prevent anything that is not really part of a man's will being given to the world as his, if that part can be severed from the rest. It may be said that in reality it is making a will to abstract words from the signed document, and so it is in a certain sense. The distinction stated in its result is a fine one, but it arises from a conflict between the duty of the Court to allow only a man's true will to be proved and the requirements of the law that certain formalities shall be regarded. Even when these formalities have been duly performed, the Court will sometimes disregard that which has obtained their sanction, but it cannot in any case dispense with those formalities. It can clear a duly executed will of foreign matter which should not be there, but it cannot introduce matter which should be there, when such matter has not had the sanction of due execution. —*Law Journal.*

NOTES OF CANADIAN CASES.

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COURT OF APPEAL.

JUNE 30.

THE GRAND JUNCTION RAILWAY CO. v. THE MIDLAND RAILWAY CO.

Railway Company—Right to land—Forfeiture of—Description of Company.

The Peterborough and Chemong Lake Railway Company, which was incorporated in 1855 (18 Vict., ch 194), had acquired the land in question as part of their road-bed, and the charter of that company expired in 1865 by reason of the road not having been put into operation, and in 1866 an Act was passed (29 and 30 Vict., ch. 98) by which the road was to be sold at auction; the Act of incorporation revived, and the time extended five years for completing the road. Within that period a conveyance was made to the defendant company, who took possession, but did not make any use of the land until shortly before the institution of proceedings in this suit. In 1872 the Cobourg, Peterborough and Marmora Railway and Mining Company filed a map and book of reference for proposed extension of their line of road over the land in question, and constructed a part of it thereon, but ceased in 1873. In 1880 the C. P. & M. R. & M. Co. leased to the plaintiff com-