that the parties were really never at one; and in that case the result would be the same.

If the case were one of words of unquestionable meaning, I cannot think that a case for reformation would have been made at the trial.

Under the circumstances the action might very well have been dismissed without costs; the lack of any sort of reasonable care in signing the very doubtful "offer to purchase," has really brought about this litigation. As the plaintiff was given his costs at the trial I would make no order as to costs here.

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HON. MR. JUSTICE BRITTON. JULY 2ND, 1912.

CORNWALL SINGLE COURT.

## RE SNETSINGER.

3 O. W. N. 1569.

*Will — Construction — Devise of Real Estate — Land Subject to Contract of Sale.*

BRITTON, J., *held*, that a devise of the whole of a testator's real estate does not include lands sold under an agreement for purchase, even if some instalments of purchase-money are overdue, the testator's interest being an interest in the unpaid purchase-money.

Motion by Allan Snetsinger, upon an originating notice of motion under Consolidated Rule 938, for an order of the Court, construing that clause in the will of John G. Snetsinger, which dealt with the real estate in the township of Cornwall—which belonged to the testator. The motion was heard at Cornwall.

George A. Stiles, for A. M. Snetsinger.

C. H. Cline, for the executors.

HON. MR. JUSTICE BRITTON:—The testator made his will on the 19th day of November, 1906. On that day he owned several farms in the township of Cornwall. On the 15th day of March, 1899, the testator entered into an agreement with one W. H. Conliff for the sale to Conliff of part of the east half of lot 22 in the 4th concession, 5th range of the township of Cornwall, for the price or sum of $2,500