

to turn it off, whereby goods in the store below were damaged by water.

Held, DAVIES and NESBITT, JJ., dissenting, that the act of the workmen was done in course of their employment; that it was negligent; and that the owner of the goods could recover damages though he was in possession merely as an overholding tenant who had not been ejected. Appeal allowed with costs.

W. B. A. Ritchie, K.C., and H. A. Lovett, for appellant. Mellish, K.C., and Silver, for respondent.

N.S.]

IN RE ESTATE OF ALICIA CULLEN.

[Jan. 31.

Will—Execution—Evidence—Appeal.

In proceedings for probate of a will the solicitor who drew it testified that it was signed by the testatrix when the subscribing witnesses were absent; that on their arrival he asked the testatrix if the signature to it was hers and if she wished the two persons present to witness it, and she answered "yes"; each of the witnesses acknowledged his signature to the will, but swore that he had not heard such question asked and answered. The Judge of Probate held that the will was not properly executed and his decision was affirmed by the Supreme Court of Nova Scotia.

Held, affirming the judgment appealed from (36 N.S.R. 482) that two courts having pronounced against the validity of the will, such decision would not be reversed by a second Court of Appeal. Appeal dismissed with costs.

Ross, K.C., for appellants. Newcombe, K.C., and Henry for respondents.

Province of Ontario.

COURT OF APPEAL.

Full Court.]

[Oct. 14, 1904.

IN RE NORTH RENFREW ELECTION.

Contempt of court—Newspaper—Controverted election.

Having regard to the principle that the summary remedy of committal for contempt because of comments on a matter sub judice should be granted only when it clearly appears that the course of justice has been or is likely to be restricted or impaired to the prejudice of the applicant, the court refused a motion to commit the editor of a newspaper because of comments made in an editorial, pending the trial of an election petition in which