

*Held*, per TASCHEREAU, C.J., that the evidence established that the words in dispute were on the order when it was signed and the plaintiffs were entitled to recover.

*Held*, per SEDGEWICK and DAVIES, JJ., MILLS, J., hesitante, that even if these words were not originally on the order the circumstances disclosed in evidence shew that the design supplied was substantially that ordered and the judgment appealed from should stand.

*Held*, per GIROUARD, J., following *Village of Granby v. Menard*, 31 Can. S.C.R. 14, that the evidence being contradictory and the trial judge having found for the defendant which finding the evidence warranted, his judgment should not have been reversed on appeal. Appeal dismissed with costs.

*Watson*, K.C., and *Hislop*, for appellants. *Aylesworth*, K.C., and *Fish*, for respondents.

Ont.]

HENNING v. McLEAN.

[April 20.

*Will—Construction—Dying “at same time.”*

H. by his will provided for disposal of his property in case his wife survived him, but not in case of her death first. The will also contained this provision: “In case both my wife and myself should, by accident or otherwise, be deprived of life at the same time, I request the following disposition to be made of my property” . . . H. died sixteen days after his wife, but made no change in his will.

*Held*, affirming the decision of the Court of Appeal, 4 O.L.R. 666, which affirmed the judgment of the Divisional Court, 2 O.L.R. 169, that H. and his wife were not deprived of life at the same time and he therefore died intestate. Appeal dismissed with costs.

*Aylesworth*, K.C., for appellants. *H. J. Scott*, K.C., and *H. O'Brien*, K.C., for respondents.

Ont.]

THORNE v. THORNE.

[April 20.

*Will—Devise of all testator's property—Chose in action.*

A devise of all “my real estate and property whatsoever and of what nature and kind soever,” at a place named does not include a debt due by the devisee, who resided and carried on business at such place, to the testator. Judgment of the Court of Appeal, 4 O.L.R. 682, affirmed. Appeal dismissed with costs.

*D. O. Cameron* and *Blain*, for appellants. *S. H. Blake*, K.C., and *Saunders*, for respondent, except *W. H. Thorne*. *Lee*, for *W. H. Thorne*.