face water and the steady flow from a source, and as a passage read to the jury from the judgment in *Beer* v. *Stroud*, 19 O. R. 10, divorced from its context, might have misled the jury, there should be a new trial.

Per ARMOUR, C. J., that what the Judge told the jury could not be held to be a misdirection without reversing the decision in *Beer* v. *Stroud*; and the objection to the charge was too vague and indefinite. *Arthur* v. *Grand Trunk R. W. Co.*, 37.

Affirmed by the Court of Appeal.

See MUNICIPAL CORPORATIONS, 2—NEGLIGENCE, 3.

WAY.

Highway—Closing of—Adjoining Lands—Rights of Mortgagee of—"Owner"—Con. Mun. Act, 1892, sec. 550, sub-sec. 9.]—A mortgagee of land adjoining a highway is one of the persons in whom the ownership of it is vested for the purposes of sub-sec. 9 of sec. 550 of the "Consolidated Municipal Act, 1892," and as such is entitled to pre-emption thereunder, subject to the right of the mortgagor to redeem it along with the mortgage, or to have it sold to the mortgagor subject to the mortgage, if the mortgagor so prefer. *Broun* v. *Bushey et al.*, 612.

Public Place, Swearing in.]—*See* PUBLIC MORALS AND CONVENIENCE.

See MUNICIPAL CORPORATIONS, 1, 4.

WIFE.

See HUSBAND AND WIFE.

WILL.

1. *Devise—Falsa Demonstratio—Deed of Release—Recital—Estoppel—Title to Land—Statute of Limitations.*]—A testator by his will devised to his son G. "the property I may die possessed of in the village of M., also lot 28 in the 10th concession of B." In the early part of the will he had used the words "wishing to dispose of my worldly property." The testator did not own lot 28, and the only land he did own in the 10th concession of B. was a part of lot 29. The will contained no residuary devise.

Upon a petition under the Vendor and Purchaser Act:—

Held, that the part of lot 29 owned by the testator did not pass by the will to the son.

After the death of the testator, all his children executed a deed of release to the executors of his will, containing a recital that the part of lot 29 owned by the testator was devised to the son G., and that he was then in possession:—

Held, that there was no estoppel as among the members of the family, who together constituted one party to the deed:—

Held, however, upon the evidence, that G. had acquired a good title to the lands in question by virtue of the Statute of Limitations. *Re Bain and Leslie*, 136.

2. *Executors and Administrators—Succession Duty—55 Vict. ch. 6 (O.)—Residue—Pro Rata, Meaning of.*]—A testator devised and bequeathed all his real and personal estate to his executors and trustees for the purpose of paying a number of pecuniary legacies, some to personal legatees, and others to charitable associations, and provided that