

REPORTS AND NOTES OF CASES.

Dominion of Canada.

SUPREME COURT.

Ont.]

WENGER v. LAMONT.

[May 6.]

*Appeal—Amount in controversy—Reference to assess damages—
Final judgment.*

In 1905, L. and others purchased from W. his creameries on the faith of a statement purporting to be made up from the books and shewing a greater output for the years 1904-5 was equal to that of 1903. Having discovered that this statement was untrue, they brought action for rescission of the contract to purchase, and damages for the loss in operating during 1906. The judgment at the trial dismissing the action was affirmed by the Divisional Court. The Court of Appeal reversed the latter judgment, directed that a verdict be entered for plaintiffs, and ordered a reference to assess the damages. On appeal to the Supreme Court of Canada,

Held, GIROUARD, J., dissenting, that as it cannot be ascertained from the record what the amount in controversy on the appeal was, or whether or not it is within the appealable limit, the appeal does not lie.

Per LIDINGTON, J.:—The judgment appealed against is not a final judgment.

Per GIROUARD, J., dissenting:—It is established by the evidence at the trial, published on the record, and admitted by the respective counsel for the parties, that the amount in dispute exceeds \$1,000. The court, therefore, has jurisdiction to hear the appeal.

Appeal dismissed with costs.

Watson, K.C., for appellant. J. G. Wallace, K.C., for respondents.

Sask.]

RESER v. YATES.

[April 5.]

Sale of lands—Conditions—Deposit of price—Compliance with instructions—Vendor refusing to complete—Broker's commission.

A broker instructed to sell lands for a price to be deposited in a bank pending arrival of clear title, procured a purchaser who