

invention is put in a position to obtain the use of it at a reasonable rental.

W. Cassels, K.C., and A. W. Anglin, for plaintiff. Gibbons, K.C., and Haverson, and G. S. Gibbons, for defendants.

Province of Ontario.

COURT OF APPEAL.

Mabee, J.]

[Oct. 22.

RE FARRELL—FARRELL v. FARRELL.

Will—Lapsed devise—Residuary devise—Construction—Avoiding intestacy.

By one clause of his will a testator devised and bequeathed all his real and personal estate, etc.: by another clause he provided that a sister should have certain lands owned by him, which devise lapsed: and by the last clause provided "all the rest and residue of my estate consisting of money promissory note or notes, vehicles and implements I give and bequeath to my brother."

Held, that the will might be construed to prevent an intestacy as to the lapsed devise and that the lands given to the sister passed to the brother.

A. H. Clarke, K.C., for applicants. Harcourt, for infants.

Full Court.]

[Nov. 3.

LESLIE v. TOWNSHIP OF MALAHIDE.

Estoppel—Accounts of municipal treasurer—Recovery from municipality of moneys paid by treasurer out of his own pocket—Statements of account—Audit—Laches.

In February, 1899, the defendants appointed the plaintiff treasurer pro tem and gave him an order expressed to be on "the treasurer of the township of Malahide" for \$5,799.52, being the balance in the hands of the previous treasurer at the time of his death. The plaintiff carried forward in the old cash book the balance shewn on a previous page to be in the hands of the former treasurer, and then went on honouring orders upon him