

agreement made in 1896 it was provided that, upon the city giving one year's notice, it would have the option of purchasing and accepting all the works, plants, appliances, and property of the company, used for light, heat, and power purposes, both gas and electric, at a price to be fixed by arbitration; and that, upon the acquisition by the city of the works, plant, and property, the company should cease to carry on its business. The city having exercised its option.

*Held*, affirming the decision of LOUNT, J., 3 O.L.R. 637, that, in ascertaining the price to be paid to the city, the arbitrators were right in allowing nothing for the value of the earning power or franchise of the company; and in refusing to add ten per cent. to the price as upon an expropriation under R.S.O. 1887, c. 164, sec. 99.

*Walkem*, K.C., and *Whiting*, K.C., for the company (appellants). *McIntyre*, for the city.

# HIGH COURT OF JUSTICE.

Meredith, J.]

IN RE WILLIAMS.

[Jan. 23.

*Will—Construction—“All my children”—Children of predeceased child.*

The testator by his will directed that after the death of his wife his estate should “be divided amongst all my children.” One daughter died, leaving issue, before the execution of the will.

*Held*, that the daughter's children did not take directly under the will, nor by virtue of s. 36 of the Wills Act of Ontario, there having been no gift to their parent.

*D'Arcy Tate*, for the executor and children of testator. *Hobson*, for adult grandchildren. *Harcourt*, for infant grandchild.

Street, J., Britton, J.]

SHUTTLEWORTH v. MCGILLIVRAY.

[Mar. 21.

*Husband and wife—Gift from husband—Change of possession—Execution creditor.*

Interpleader issue.—The defendant purchased certain pictures and bringing them home handed them to his wife, telling her he gave them to her. She had one framed in a frame given her by her mother, and all three were hung up in the house occupied by her and her husband. Some six or seven years afterwards an execution creditor of the defendant caused the sheriff to levy on these pictures. Hence this interpleader issue.

*Held*, that since the Married Woman's Property Act of 1884 (R.S.O. 1897, c. 163, s. 3.) a married woman was under no disability as to receiving and holding personal as well as real property by direct gift or transfer from her