REPORTS AND NOTES OF CASES.

Dominion of Canada.

SUPREME COURT.

Que.] [Nov. 3, 1904.

MONTREAL COAL & TOWING CO. *v.* METROPOLITAN LIFE INS. CO.

Evidence—Verdict—New trial—Life insurance—Conditions of contract — Misrepresentation — Non-disclosure — Accident policies—Warranty—Words and terms—Rule of interpretation.

Unless the evidence so strongly predominates against the verdict as to lead to the conclusion that the jury have either wilfully disregarded the evidence or failed to understand or appreciate it, a new trial ought not to be granted.

On an application for life insurance, the applicant stated, in reply to questions as to insurances on his life then in force, that he carried policies in several life insurance companies named, but did not mention two policies which he had in accident insurance companies insuring him against death or injury from accidents. The questions so answered did not specially refer to accident insurance, but the policy provided that the statements in the application should constitute warranties and form part of the contract.

Held, affirming the judgment appealed from, the Chief Justice dissenting, that "accident insurance" is not insurance of the character embraced in the term "insurance on life" contained in the application, and, consequently, that the questions had been sufficiently and truthfully answered, according to the natural and ordinary meaning of the words used, and even if the words used were capable of interpretation as having another or different meaning, then the language was ambiguous and the construction as to its meaning must be against the company by which the questions were framed. *Confederation Life Association* v. *Miller*, 14 S.C.R. 330, followed. *Mutual Reserve Life Ins. Co.* v. *Foster*, 20 Times L.R. 715, referred to. Appeal dismissed with costs.

R. C. Smith, K.C., and *Claxton*, for appellants. *Atwater*, K.C., and *Duclos*, K.C., for respondents.