

Province of Ontario.**SUPREME COURT.**

Middleton, J.]

[May 5.]

RE DORWARD.

Will—Construction—Residuary devise—Ignorant use of printed forms—Intention gathered from will.

Motion by the executrix for an order declaring the construction of the will of Walter Dorward, who died on the 22nd February, 1911.

MIDDLETON:—"The country conveyancer" and "The man who makes his own will" are favourite toasts at lawyers' gatherings. "The man who invented printed will-forms" will soon be equally popular. As excellent as these forms often are, so many errors arise in filling them up, that already a formidable list of cases can be found dealing with the problem prescribed. This testator used the same form as that considered in *re Conger*, 19 O.L.R. 499, and filled it up in the same way, save that he inserted his wife's name in the clause for the appointment of executors, and left the space blank in the residuary devise. So the will reads: "All the residue of my estate not hereinbefore disposed of I give devise and bequeath unto and I nominate and appoint Mrs. Isabella Dorward to be executrix of my last will and testament." This can, I think, be read as an awkward sentence by which the wife is made residuary devisee as well as executrix. Dorward did not mean to die intestate, and I think that from the will itself his intention can be gathered, and that intention was to give his property to his wife.

May v. Logie, 27 O.R. 505 and 23 A.R. 785, shews that the intention may be gathered and given effect to, even when the actual words used do not form a sentence, and are quite incapable of grammatical analysis.

Shirley Denison, K.O., for the executrix and for William and David Dorward. *H. M. Ferguson*, for the other next of kin.