When written they have no resemblance, but quite otherwise when spoken.

As to Wilson Wilson instead of William Wilson, or, as it should be written in the list, Wilson William, the suggestion is offered which is at least plausible, that as the surname is usually written first, the assessor having written the name first forgot for the moment that he had done so, and wrote it again as if he had written the surname first. The name is right beyond question.

As to Faulkner it is not suggested how "Simond" was written for "Alexander," but suppose in both cases that no surname had been written, and the surname only appeared on the roll, would either of them have been the less rated because his christian name did not appear? and would either be in reasonable fairness less entitled to his franchise, when it was not even doubted that he was the man, and had the qualification which gave it to him?

It has been argued that because the 61st section of cap. 55 declares that "the roll as finally passed by the Court (of Review), and certified by the clerk as so passed, shall be valid and bind all parties concerned, notwithstanding any defect or error committed in or with regard to such roll. Every person should examine it after it after it has been put up for inspection, to see that it is right in every respect. This would no doubt be prudent, for its omission may deprive a man of his franchise who neglects it; but I may safely say that if men trust, as most men do trust, that a public officer does his duty, I cannot lay down a rule so strict as to require suspicious vigilance regarding the acts of such officers. I know, we are so constituted that even when we intend to be very careful, and suppose we are acting scrupulously so, we fall into mistakes caused, perhaps, by the over anxiety to avoid it.

I think, under all the circumstances, the first voter was rated by a name *idem sonans*, and the last two by their names, although the surnames were wrong. I think it would be carrying the rule to an extreme at variance to one's sense of right to hold that because a man's surname was not right in every respect he should be deprived of his right to vote, when his neighbours as well as himself knew he was in right of his qualification entitled to vote.

The case, however, is presented in another point of view, namely, that the returning officer had no right to put any name on his poll book which was not on his list, and that he did put on his poll book the names of three voters whose names were not on the last list furnished by the clerk to him.

This is more plausible than sound, for it is the same proposition as the one first discussed, "That if the voters' names on the list do not correspond with the names as given when they come to vote, they have not been rated at all, and have no right to vote.

If the returning officer in the honest discharge of his duty had rejected these votes, he could not have been fairly charged with misconduct or indiscretion; nor can he be so charged in doing what he did.

He no doubt conscientiously felt that they were the voters who had the franchise, and he very probably knew they lived on the land in right of which they claimed to vote, and I approve of his conduct, for if he had adopted the first alternative he might have been denying a positive right, while by adopting the latter he left the right to be questioned before the proper tribunal.

For what he did he may have known that he had a precedent in the practice of our own courts analogous to his own procedure. In jury lists the jurors are designated by the numbers of their lots, but the names and surnames are frequently found wrong. They come when called, and say their names are not right, and on its being ascertained they are the persons intended, the names are corrected, and they are then taken to be the jurors retained.

Some of my learned brethren have decided that we shall not go behind the assessment roll and constitute ourselves a Court of Review. I concur with them, and in this matter I am not infringing upon their decision. I hold only that in this case these men are upon this list so as to entitle him to vote although not correctly named thereon.

My order is in favor of the defendant, but as the points are new, without costs.

Order accordingly.

INSOLVENCY CASES.

(*Reported by* HENRY O'BRIEN, *Esq., Barrister-at-Law.*)

WILLSON v. CRAMP.

Insolvent Act of 1864, *sec.* 3, *sub-sec. i.—Voluntary assignment not under act—Act of insolvency—Subsequent writ of attachment—Which to prevail.*

Where an insolvent debtor, subsequently to the coming into force of the Insolvent Act of 1864, makes an assignment to trustees for the benefit of creditors, not however under, or pretending to be under the Act, and upon which as an act of insolvency, proceedings are afterwards taken under the Act, such an assignment is void as against the assignee in insolvency.

[June 8th & 20th, 1865.]

On the 11th January, 1865, J. D. Mackay, then being insolvent, made an assignment to Thomas Cramp and Andrew Milroy, two of the defendants, for the benefit of creditors upon certain trusts, which assignment was not and did not purport to have been made under the provisions of the Insolvent Act of 1864.

Proceedings were subsequently taken under the Act, and an attachment issued upon the ground that this assignment was in itself an act of insolvency, and that the estate of J. D. Mackay became liable to compulsory liquidation. One William Powis was appointed official assignee of the estate, but upon his death the present plaintiff, another official assignee, was appointed in his place. As this was the first case of the kind, the defendants, Cramp and Milroy, refused to hand over to the plaintiff the books of account and property of the insolvent's estate, without the direction of the court. Upon this the plaintiff filed a bill against Cramp and Milroy, and David and John Torrance, creditors of Mackay, setting out the facts and charging that the defendants Cramp and Milroy would, unless restrained by the injunction of the court, proceed to sell the said property and collect the debts due to the estate: that the said assignment hindered and obstructed the plaintiff in the collection of the said debts, and that the said assignment is by reason of its having been