

but merely an incomplete and ineffective gift inter vivos, and that the mortgages formed part of the mortgagee's estate.

Judgment of MEREDITH, C.J., affirmed.

*Aylesworth*, Q.C., and *Kittermaster*, for appellant. *Riddell*, Q.C., for respondent.

From Meredith, C.J.]

[Jan. 7.

ATCHESON v. GRAND TRUNK RAILWAY.

*Railways—Overhead bridge—Car of another company—"Used on the railway."*

When a car of a foreign railway company forms part of a train of a Canadian railway company, it is "used" by the latter company within the meaning of s. 192 of the Railway Act, 51 Vict., c. 29 (D.), so as to make that company liable in damages for the death of a brakesman caused by the car being so high as not to leave the prescribed headway between it and an overhead bridge.

Judgment of MEREDITH, C.J., affirmed.

*Wallace Nesbitt*, Q.C., and *H. E. R.*, for appellants. *W. J. Hanna*, for respondent.

From Meredith, J.]

BOOK v. BOOK.

[Jan. 7.

*Life insurance—Change of beneficiary—Will.*

When a policy of insurance is payable to a beneficiary for value, not so named on the face of the policy, who is also one of the preferred class of beneficiaries, the assured cannot by his will transfer the benefit of the insurance to another beneficiary of the preferred class. Such a case is governed by s. 151, and does not fall within s. 160 of the Insurance Act, R.S.O. c. 203.

Judgment of MEREDITH, J., 32 O.R. 206; 36 C.L.J. 596, reversed.

*Teetzel*, Q.C., and *Geo. C. Thomson*, for appellant. *Armour*, Q.C., and *W. W. Osborne*, for respondent.

From Co. J., Welland.]

[Jan. 7.

IN RE ONTARIO SILVER COMPANY AND BARTLE.

*Plan—Amendment—"Party concerned."*

A plan of sub-division of the land of adjoining owners, prepared and registered upon their joint request, may, upon compliance with the statutory conditions, be amended upon the application of either owner as far as his own land is concerned, without the consent of the other owner, but that other owner is a "party concerned" within the meaning of s. 110 of R.S.O. c. 136, and entitled to notice of the application.

Judgment of the Judge of the County of Welland affirmed.

*F. W. Hill*, for appellants. *Cassels*, Q.C., for respondents.