

FERGUSON, J.]

[Feb. 14.]

CONFEDERATION LIFE ASSOCIATION v. CITY OF TORONTO.

*Assessment—Insurance company—Reserve fund—Interest on investment of—
55 Vict., c. 48, s. 34; s. 2, s.s. 10.*

Where the County Court Judge of the County of York had decided, as reported 29 C.L.J. 151, on appeal from the Court of Revision, that the plaintiffs were liable under s. 34, and s. 2, s.s. 10, of the Consolidated Assessment Act, 55 Vict., c. 48, to be assessed upon the interest arising upon investments of their reserve fund, although such interest was always added to the said reserve fund and re-invested as part of it, and the plaintiffs now brought this action to have the assessment declared illegal;

Held, that the judge of the County Court had full jurisdiction, and the matter was, therefore, *res judicata*.

Seemle, that the County Court Judge's decision was right. Although the plaintiffs were bound by law to keep up the reserve fund upon a certain scale, the amount varying according to the values of the lives insured by them, as fixed by actuaries' tables, yet they were not bound to apply the income arising from the investments of the fund in keeping the fund at its proper level, but the necessary increase might be made with any money whatever.

S. H. Blake, Q.C., and *Snow* for the plaintiffs.

Biggar, Q.C., for the defendants.

FERGUSON, J.]

[Feb. 22.]

MEHR v. McNAB.

Negligence—Landlord and tenant—Fall of verandah—Injury to daughter of lessee—Covenant to repair.

Where one had leased premises and had covenanted with the lessor to keep them in repair, and his daughter, living with him at the time of the accident, was injured by the fall of a verandah attached to the building;

Held, that the daughter had no right of action for damages, on account of the accident, against the lessor, nor could she be considered as standing in the position of a stranger.

Johnston, Q.C., for the plaintiff.

E. T. English for the defendant.

FERGUSON, J.]

[Feb. 22.]

EMPEY v. CARSCALLEN.

New trial—Jury—Right of challenge—Mistrial—R.S.O., c. 52, s. 110—Motion for a new trial.

At the trial of this case, where the defendants delivered separate defences and were separately represented at the trial, and claimed to be entitled under, the Jurors' Act, R.S.O., c. 52, s. 110, to four peremptory challenges each, which right was conceded by the judge, and they challenged six jurors between them, in spite of the remonstrances of the plaintiff's counsel, and the trial proceeded, resulting in a verdict for the defendants;