In 1900 M. applied for and obtained a renewal of his license embracing the identical ground staked by him in the previous year, and at the time such renewal was applied for W.'s creek claim had lapsed. In March, 1901, S. staked a bench claim embracing the lands in W.'s expired location, which had been overlapsed by M.'s claim, as being unoccupied Crown land.

Held, affirming the judgment appealed from, DAVIES and ARMOUR, JJ., dissenting, that although M.'s original staking of the ground in dispute was invalid, yet as W.'s claim had lapsed at the time of the application for a renewal grant in 1900, M. having been continuously in possession of the whole location as staked by him, his stakes still standing and the limits of his area well known, his application for the renewal gave him a valid entry without the formalities of re-staking and applying anew for the original area located by him, and, following the rule laid down in *Osborne* v. *Morgan*, 13 App. Cas. 227, S. could not interfere with M.'s possession.

Appeal dismissed with costs.

Lorne McDougall, for appellant. *J. A. Ritchie*, for respondent.

[April 29, June 8.

IN RE REPRESENTATION OF THE HOUSE OF COMMONS.

Constitutional law—B. N. A. Act, 1867, s. 51—Aggregate population of Canada.

In determining the number of representatives to which Ontario, Nova Scotia and New Brunswick are respectively entitled after each decennial census the words "aggregate population of Canada" in sub-s. 4 of s. 51 of the B.N.A., 1867, mean the whole population of Canada, including that of provinces which have been admitted subsequent to the passing of the Act.

Prince Edward Island on admission to the union became subject to the provisions of s. 51, and its representation is liable to be re adjusted thereunder after each census.

Æmilius Irving, K.C., for Ontario. *Pugsley*, K.C., and *Allen*, K.C., for New Brunswick. *Longley*, K.C., and *McDonald*, for Nova Scotia. *Cannon*, K.C., for Quebec. *Fitzpatrick*, K.C., and *Newcombe*, K.C., for the Dominion. *Aylesworth*, K.C., *Peters*, K.C., and *Williams*, for Prince Edward Island.

N.S.] LOVITT v. ATTORNEY-GENERAL OF NOVA SCOTIA. [May 5.

Succession duties—Property exempt—Sale under will—Duty on proceeds.

Debentures of the Province of Nova Scotia are, by statute, "not liable to taxation for provincial, local or municipal purposes" in the province. L., by his will, after making certain bequests, directed that the residue of his property, which included some of these debentures, should be converted