

the special case (paragraph 13) is that on the 31st December, 1901, there remained only \$2,075.13 on hand, and this sum is, I find, included as part of the receipts in a statement of receipts and payments of the Peterborough Water Company from 1st January to 16th June, 1902. That and other receipts of the company were expended between those dates in payment of liabilities of the company.

All the stockholders, both second preference and the holders of ordinary shares of stock, having had returned to them the amount paid in by them on their shares, together with the dividends payable thereon up to the period of distribution, and all the debts and liabilities having been paid, I direct that, after payment out of the surplus assets on hand of the costs of all parties of this motion, the remaining assets of the company be distributed among all the holders of the ordinary stock of the company in proportion to their shares.

FALCONBRIDGE, C.J.

JULY 28TH, 1902.

TRIAL.

WHITESELL v. REECE.

Tenant for Life—Waste—Cutting Timber—Remaindermen—Injunction—Payments by Tenant for Life on Mortgage—Subrogation.

Action by the persons entitled under the will of G. Seealey, deceased, to an estate in remainder in certain lands in the township of Bayham, against the life tenant and the purchaser from her, to restrain waste by cutting timber, etc. The land in question was devised to the tenant for life subject to a mortgage made by testator to trustees to secure annual payments of \$200 to testator's wife during her lifetime.

D. J. Donahue, K.C., and W. E. Stevens, Aylmer, for plaintiffs.

J. A. Robinson, St. Thomas, for defendants.

FALCONBRIDGE, C.J.—The life tenant, defendant Reece, has kept up the payments on this mortgage since testator's death; and recently undertook to sell standing timber on the land to her co-defendant James Payne. Under that agreement defendant Payne proceeded to cut a large quantity of timber until restrained by order and injunction of the Court. The tenant for life claims to be entitled to be subrogated to the rights of testator's widow and of her trustees in respect of and to the extent of the amounts which the tenant for life has paid on the mortgage; and argues that these payments,