

name, notwithstanding that they are also at the right hand side, and opposite or nearly opposite to Monteith's name, and may have been intended for him. I think those fourteen ballots ought not to have been allowed and ought to be taken off Mr. Monteith's poll.

The learned judge has not in his certificate stated what he found the majority to be, or in whose favour it was, and I can do no more than to decide that the fourteen ballots above mentioned ought to have been rejected.

I think there should be no costs.

*Idington, Q.C.*, for Moscrip. *Wallace Nesbitt and F. H. Thompson*, for Monteith.

From Falconbridge, J.] *LANGLEY v. MEIR.* [June 30.  
*Insolvency—Assignments and preferences—Landlord and tenant—Rent—Acceleration clause—58 Vict. c. 26, s. 3, sub-s. 1 (O.)—R.S.O. c. 170, s. 34, sub-s. 1.*

The above enactment is a restrictive provision, and limits the landlord's lien, even though in the lease under which he claims there is an acceleration clause wider in its terms than the statutory provisions. *Clarke v. Reid*, 27 O.R. 618, overruled. Judgment of *FALCONBRIDGE, J.*, reversed.

*Shepley, Q.C.*, for appellant. *W. Barwick*, for respondent.

From Rose, J.] *SPARKS v. WOLFF.* [June 30.  
*Will—Construction—Change in law—"Heirs"—14-15 Vict., c. 6—43 Vict. c. 14, s. 2 (O.).*

A testator, who died on the 8th of November, 1867, by his will, made on the 15th of October, 1867, devised lands in Ontario to his wife until her death or marriage, and upon her death or marriage, to his son, "should he be living at the happening of said contingencies," and if not then living "unto the heirs of the said (son)." The son died in July, 1885, intestate and unmarried, and the widow died in February, 1887.

*Held*, that [the Act abolishing heirship by primogeniture, 14-15 Vict. c. 6, applied, and that all the brothers and sisters of the son were his "heirs" and entitled to take under this device. *Tylee v. Deal*, 19 Gr. 101, and *Baldwin v. Kingstone*, 18 A.R. 63, distinguished. Judgment of *ROSE, J.*, reversed.

*Armour, Q.C.*, for appellant. *Ostler, Q.C.*, for respondent.

From Assessment Court.] [June 30.  
*IN RE CANADA LIFE ASSURANCE COMPANY AND CITY OF HAMILTON.*  
*Assessment and taxes—Life insurance company—Reserve fund—Income—Divisible profits.*

The net interest and dividends received by the Canada Life Assurance Company from investments of their reserve fund form part of their taxable income, though to the extent of ninety per cent. thereof divisible, pursuant to the terms of the company's special Act, as profits among participating policy holders, and not subject to the control or disposition of the company. Judgment of the Assessment Court affirmed.

*Bruce, Q.C.*, for appellants. *Robinson, Q.C.*, and *Mackelcan, Q.C.*, for respondents.