

The learned trial Judge proceeded upon the second ground.

Upon the first ground, the case of *In re Walker*, [1905] 1 Ch. 160, which counsel for the appellants endeavoured to distinguish, covered this case, and should be followed, and a conclusion in favour of the plaintiffs upon the first ground reached.

The conclusion of fact of *Lennox, J.*, upon the second ground, should also be adopted.

No disposition seemed to have been made of the claim to indemnity made by the defendant *Christine Halford*, as executrix of *Dennis*, against her co-defendants. She was entitled to such indemnity, without costs, although not to the lien to which the plaintiffs would have been entitled, had they claimed it, upon the lands into which the moneys paid to the defendants *J. R. Rourke* and *Mary McBride* went. See *Moxham v. Grant*, [1900] 1 Q.B. 88.

The judgment should be varied by the addition of an indemnity clause; and, with that variation, the appeal should be dismissed with costs.

The other members of the Court concurred; *HODGINS, J.A.*, giving reasons in writing.

*Judgment varied.*

SECOND DIVISIONAL COURT.

MAY 5TH, 1916.

### RE BECK TRUSTS.

*Trusts and Trustees—Executors—Over-payment to Beneficiaries—  
Trustees of Insurance Fund—Moneys Due to Beneficiaries—  
Set-off—Claims Arising en autre Droit.*

After the reasons for judgment in this case were stated by the Court (9 O.W.N. 283), the appeal and cross-appeal were reargued by leave of the Court (*FALCONBRIDGE, C.J.K.B., RIDDELL, LATCHFORD, and KELLY, JJ.*).

*H. T. Beck*, for the appellants in the main appeal and for *Helen Beck*.

*E. C. Cattanach*, for the Official Guardian, representing *Doris Beck*, an infant.

*N. W. Rowell, K.C.*, and *D. B. Sinclair*, for the liquidator of the Dominion Trust Company, respondent and cross-appellant.

The judgment of the Court was read by *LATCHFORD, J.*, who said that the funds for which the Dominion Trust Company were