

Held, that though the Probate Court could not set aside the sale it had jurisdiction to make such order.

Where by will money was bequeathed to the testator's daughter "to hold and be enjoyed by her while she remains unmarried" with a bequest over in case of her decease or marriage.

Held, that the daughter was only entitled to the income from said money and not to the possession and disposition thereof.

Remarks on the absence from the record of the decree of the Court of original jurisdiction. Appeal dismissed with costs.

Newcombe, K.C., and *McKeown*, K.C., for appellant.
Gregory, K.C., and *Macrae*, for respondents.

N.S.]

[June 24.]

CITY OF HALIFAX v. McLAUGHLIN CARRIAGE CO.

*Appeal — Stated case — Provincial legislation — Assessment —
Municipal tax — Foreign company — "Doing business in
Halifax."*

An Ontario company resisted the imposition of a license fee for "doing business in the City of Halifax" and a case was stated and submitted to the Supreme Court of Nova Scotia for an opinion as to such liability. On appeal from the decision of the said Court to the Supreme Court of Canada counsel for the City of Halifax contended that the proceedings were really an appeal against an assessment under the city charter, that no appeal lay therefrom to the Supreme Court of the Province, and therefore, and because the proceedings did not originate in a Superior Court, the appeal to the Supreme Court of Canada did not lie.

Held, per FITZPATRICK, C.J., and DUFF, J., that as the appeal was from the final judgment of the Court of last resort in the Province this Court had jurisdiction under the provisions of the Supreme Court Act, and it could not be taken away by provincial legislation.

Per DAVIES, J., provincial legislation cannot impair the jurisdiction conferred upon this Court by the Supreme Court Act. In this case the Supreme Court of Nova Scotia had jurisdiction under order xxxiii, Rule 1 of the Judicature Act.

Per IDINGTON, J. If the case was stated under the Judicature Act Rules the appeal would lie, but not if it was a submis-