

he would no longer be responsible for or pay the rent. In an action for breach of the covenants of the lease and to recover the rent accruing to the end of the term:—

*Held*, reversing the judgment appealed from (8 West. W.R. 237), Idington and Brodeur, JJ., dissenting, that by the effect of the assignment and entry into possession the term of the lease passed to the official assignee who thereupon became liable for the whole of the rent accruing for the remainder of the term.

*O. M. Biggar*, K.C., for appellants. *J. S. Scrimgeour*, for respondent.

Ont.]

WOOD v. GAULD ET AL.

[Feb. 21.

*Partnership—Dissolution—Death of partner—Survivor's right to purchase share—Goodwill—Annual balance sheet.*

If one member of a partnership dies the survivor has a right to take over his interest at a valuation though there is no express provision therefor in the partnership agreement if the intention of the partners that he should, clearly appears from its terms. Brodeur, J., dissented. Idington, J., dissented on the ground that such intention was not clearly manifested.

The partnership articles provided that at the end of each partnership year an account should be taken of the stock, liabilities and assets of the business and a balance sheet struck for that year; that in case one partner died the co-partnership should continue to the end of the current financial year, or, at the option of the survivor, for not more than twelve months from such death; that for twelve months from the death of his partner the survivor should not be required to pay over any part of the latter's capital in the business; and that any dispute between the survivor and representatives of deceased as to the amount of debits against or credits to either in the balance sheet or the valuation of the assets should be referred to arbitration.

*Held*, Duff, J., dissenting, that the value of the interest of the deceased partner was not to be determined by the account taken and balance sheet struck at the end of the financial year following his death, but the assets should be valued in the ordinary way.

*Held*, also, Davies and Duff, JJ., dissenting, that the goodwill of the business was to be included in said assets, though it never formed a part of them in the annual sheets struck since the co-partnership began. [Judgment of the Appellate Division (34 Ont. L.R. 278) reversed in part.]

*Tilley*, K.C., and *Washington*, K.C., for appellant. *E. F. B. Johnston*, K.C., for respondents.