

LANDLORD AND TENANT—COV. INT TO REPAIR—NOTICE OF BREACH—FORFEITURE—RE-ENTRY—RENT FALLING DUE, AFTER NOTICE OF BREACH OF COVENANT TO REPAIR—ACTION FOR RENT AND POSSESSION—CONVEYANCING ACT, 1881 (44 & 45 VICT., C. 41) S. 14, S.-S. 1, (R.S.O. (1897) c. 170, S. 13, S.-S. 1).

Penton v. Barnett (1898) 1 Q.B. 276 was an action by a landlord against his tenant to recover possession of the demised premises for breach of a covenant to repair. Notice of the breach had been duly served on the tenant under the Conveyancing Act, 1881 (see R.S.O. (1887) c. 143, s. 11) to repair within a given time. Three days after the expiration of the notice a quarter's rent became due, and the repairs not having been made as required for about twenty days afterwards, the landlord brought the action to recover possession of the demised premises, and also for the quarter's rent. The defendant contended that the plaintiff by bringing an action for the rent which accrued due after the alleged cause of forfeiture for non-repair according to notice, had waived the right to insist on the forfeiture, and at the trial Ridley, J., gave judgment for the defendant, but the Court of Appeal (Smith, Rigby and Collins, L.JJ.) reversed his decision on the ground that the claim for rent was only an election to treat the defendant as tenant up to the date on which the rent became due, and that the plaintiff was entitled to rely on the subsequent continued neglect to repair, without giving any new notice, as the breach of the covenant to repair was a continuing breach.

WILL—CONSTRUCTION—APPORTIONMENT—BEQUEST OF SHARES WITH DIVIDEND—APPORTIONMENT ACT, 1870 (33 & 34 VICT., C. 55) SS. 5, 7 (R.S.O. c. 170, SS. 4, 8).

In re Lysaght, Lysaght v. Lysaght (1898) 1 Ch. 115, it was held by the Court of Appeal (Lindley, M.R., and Chitty and Williams, L.JJ.) reversing the judgment of Kekewich, J., that where a testator bequeaths shares in a limited company coupled with a declaration that the shares so bequeathed shall carry the dividend accruing thereon at the testator's death, such declaration was a stipulation within the meaning of the Apportionment Act, 1870, s. 7 (see R.S.O. c. 170, s. 8) which prevents the Act applying, and consequently the whole