bound to produce and put in, as part of their case, the written advertisement, referred to by the defendant in the article complained of; and the plaintiffs, though protesting, accepted the ruling, and put in the evidence.

Held, that the ruling was wrong; but that the plaintiffs were not entitled to a new trial, as the only wrong to the plaintiffs was to let the defendant's counsel have the last word with the jury.

The statement in Odgers, Bl. ed., s. 573, that "if the alleged libel refers to any other document, the defendant is also entitled to have the document read, as part of the plaintiff's case," is too broad.

Watson, Q.C., for the plaintiffs.

W. Read for the defendant.

Chancery Division.

ROBERTSON, J.] [May 14.

ELLIOTT *v* BUSSELL.

Husband and wife—Money paid by wife for use of husband—Corroborative evidence.

When in the administration proceedings of an estate of a deceased testator, it appeared that the plaintiff, his widow, had paid at the testator's request, out of her separate property, certain premiums payable by him on two Life Assurance policies on his own life, and the plaintiff swore that she was to be repaid the amounts so paid by her:

Held, that, on the plaintiff claiming these moneys in the administration proceedings, the onus was on the defendant, the executor, to shew that they were a gift from the plaintiff to the testator, and that it was not incumbent on the plaintiff to prove that the moneys were to be repaid to her before she could recover.

Laidlaw, Q.C., for the defendant.

Kilmer for the plaintiff.

ROBERTSON, J.] [May 22.

BRUYEA *v.* ROSE.

Action of trespass—Occupant of crown lands—Possession by tenant—Statute of Limitations.

The result of the cases appears to be that where a person is in possession with the assent of the Crown paying rent, as in *Harper* v. *Charlesworth*, 5 B. & C. 574, or where a person is a purchaser although the patent has not issued, such person can maintain trespass against a wrongdoer.

A tenant taking in land adjacent to his own by encroachment, must as between himself and the landlord be deemed *prima facie* to take it as part of the demised land, but that presumption will not prevail for the landlord's benefit against third persons.

Dickson, Q.C., for the plaintiffs.

Clute and Burdette for the defendants.

BOYD, C.] [June 4.

BANK OF COMMERCE *v.* MARKS.

Partnership—Debts of old firm—Privity.

G. M. & J. B. D., trading under the firm name of M. D. & Co., became indebted on certain promissory notes to the plaintiffs. G. M. left the firm, and S. M. formed a partnership with J. B. D., and continued the business under the same firm name, and this new firm agreed to assume the liabilities of the old firm.

Held, that the plaintiffs had no right of action against the new firm, merely because the latter had, pursuant to their agreement with old firm, made certain payments on account of the notes to the plaintiffs; nor because, apparently, under a mistake of law, the new firm had asked for an extension of time from the plaintiffs.

W. Cassels, Q.C., for the plaintiffs.

Laidlaw, Q.C., for the defendant Playfair.

Scott for the defendant Balfour.

Div'l Ct.] [June 9.

CITY OF KINGSTON *v.* CANADA LIFE ASS. CO.

Assessment and taxes—Insurance Company—Head office and branch office—Assessment of income at branch office—R.S.O. 1887, c. 193.

Held, reversing the decision of FERGUSON, J., reported 18 O. R. 18, that the amount of premiums, received year by year by the defendants at Kingston, were not assessable there.

"Income," as commercially used, means the balance of gain over loss in the fiscal year or other period of computation, and this is the meaning of the word in the Assessment Act. No distinct integral part of the defendants' income was referable to Kingston. The ultimate profit (if any) of the whole business of the Com-