

Defendants claimed that plaintiffs, in their proofs of loss, falsely stated the value of the property insured and that this, under the statutory conditions, was a false and fraudulent statement which vitiated the claim.

*Held*, 1. The words of the condition meant a statement false to the knowledge of the person making it and not a statement of the value in excess of that fixed by the arbitrators, this being a matter in respect to which there was room for diversity of opinion.

2. As soon as plaintiffs proved the policy, the fire and the submission and award, their case was complete and the onus then rested upon defendants.

3. Evidence of one of the plaintiffs as to the amount of damage sustained was immaterial.

4. The action was one in which the plaintiffs were entitled to sue jointly and recover, notwithstanding the fact that they had separate interests in the property covered by the insurance.

*Roscoe*, K.C., for appeal. *Drysdale*, K.C., contra.

Full Court.]

ATTORNEY GENERAL v. POWER.

[Feb. 21.

*Will—Discretion of executors to withhold and accumulate income—Reasonable and desirable time—Failure of object—Scheme ordered—Costs.*

Testator directed his executors to invest the residue of his estate in good and sufficient securities and to apply a portion of the income arising therefrom to certain objects named, and "to pay and apply semi-annually the remaining portion of such income to the introduction and support of the Jesuit Fathers in said City of Halifax." The executors were given an "uncontrolled discretion" to withhold the application of the whole or part of said income from "any or either or the whole of the purposes mentioned—for any period not exceeding the time limited by law (if any such limitation exists)," but in that case it was provided that the unapplied income should be accumulated, and that such accumulations, subject to the like powers, etc., should form part of the capital. Finally the executors were given the power, notwithstanding anything before expressed, to apply the whole of the income, including accumulations, to the promotion and support "in the City of Halifax or its vicinity, of such charitable institutions and religious orders in connection with the Roman Catholic church as my said executors, or the survivor of them, shall think proper." Efforts extending over a number of years were made to induce the Jesuit Order to establish a College in Halifax, with a view to the carrying out of the testator's wishes, but, for various reasons, they declined to do so. Negotiations were still carried on and, at a later stage, they reconsidered their determination and expressed a willingness to accept the offer made to