

A somewhat similar proviso was discussed in *Lumbers v. Gold Medal Furniture Co.* (1899), 30 S.C.R. 55.

The defendants also took the objection that neither of the plaintiffs could bring this action. There was nothing in this contention. The terms of the lease are that, if there is a sale and the notice is given, possession will be handed over to the lessor. This clearly enabled the plaintiff Maria Dwyer to bring this action for possession; and, as Dr. Teasdall is now the owner of the land and the holder of the legal title, and wants possession of his property, it cannot be said to have been wrong to join him as a party plaintiff.

It was not necessary to join the infant as a party defendant. Under the Devolution of Estates Act and Rule 74, the administrator is competent to defend an action of this nature on behalf of the estate: *Holmested's Judicature Act*, pp. 431-433. The costs of the Official Guardian should be paid by the plaintiffs.

Judgment declaring that the defendant Catherine Dwyer has no further interest, as administratrix or otherwise, in the premises described in the lease, and ordering her, on payment to her of the sum of \$350, forthwith to deliver up possession thereof.

The defendant Catherine Dwyer is to pay the plaintiffs' costs, fixed at \$100, to be deducted from the \$450 to which she would otherwise have been entitled.

SUTHERLAND, J.

DECEMBER 31ST, 1915.

PENNEFATHER v. LIFE ASSOCIATION OF SCOTLAND.

Life Insurance—Portions of Premiums Remaining Unpaid — Accumulations of Interest—Charge against Amount Payable at Death—Usury—Equitable Relief—Knowledge and Acquiescence of Assured.

Action to recover the sum of \$1,542.40 alleged to be due upon a policy of insurance on the life of John G. Pennefather, deceased. The defendants admitted that a sum of \$1,148.30 was due, and that amount was paid. The plaintiff alleged that a further sum was due.

The policy was issued on the 5th January, 1865, for £300 sterling. The annual premium was £9 15s. 6d. sterling. The assured was to participate in profits. Under a clause in the policy, the assured was allowed during the first 10 years to pay