

not have been thought to be within the same principle. The present course would not have been followed by the plaintiffs if it had not been for the Dunlop judgment. Motion granted, with costs to the defendant Tew in the cause, leaving the plaintiffs to carry the matter further if deemed of sufficient importance. H. S. White, for the defendant Tew. A. C. McMaster, for the plaintiffs.

---

RE PIPER—MIDDLETON, J.—JUNE 12.

*Will—Construction—Payment of Debts—Resort to Undisposed of Personalty—Costs.*]—A question was asked which was not raised on the former motion (see ante 912, 1243): Should the executors first resort to the residual estate as to which no disposition is made for payment of debts, before touching the property given to the widow? MIDDLETON, J., said that the asset to be first resorted to was undisposed of personalty, and the question should be so answered. No costs, as the question might have been raised on the former motion, and there did not seem to be any contest over this question. W. E. Raney, K.C., for the executors. I. F. Hellmuth, K.C., for David H. Piper.

---

STRONG V. CROWN FIRE INSURANCE CO. (AND THREE OTHER ACTIONS)—SUTHERLAND, J.—JUNE 12.

*Judgment—Motion to Vary—Consolidation of Actions—Further Evidence—Erroneous Recital in Judgment Settled and Entered—Motion to Strike out, Made after Hearing of Appeal.*]—These actions were tried before SUTHERLAND, J., without a jury, and judgment was reserved and given on the 2nd January, 1912 (ante 481). Before judgment was given, an application was made to SUTHERLAND, J., for an order consolidating each of the original actions with others in which the writs of summons for similar claims had been issued since the trial. The point involved was, whether the original actions were brought prematurely; and, if so, what course it was proper to pursue under sec. 172 of the Insurance Act. In the learned Judge's reasons for judgment, he stated that an order would be made for consolidation of the actions; and in the formal judgment settled and entered on the 17th January, 1912, that order was embodied. The formal judgment also contained the following words: "This Court having been pleased further to direct that the defendants be at liberty, if they so elect, to tender further evidence in the consolidated action in support of their defence, and the