

ADMINISTRATION—INSOLVENT ESTATE—EXECUTOR SURETY FOR
TESTATOR—RIGHT OF EXECUTOR TO INDEMNITY—EXECUTOR'S
RIGHT OF RETAINER—NON-PAYMENT OF DEBT FOR WHICH EX-
ECUTOR SURETY.

In re Beavan, Davies v. Beavan (1913) 2 Ch. 595. In this action which was one for the administration of a deceased person's estate which was insolvent, the executor was surety for a debt of the testator. He had not paid the debt, but claimed to have a right to retain the amount of the debt by way of indemnity against his liability as surety therefor; but Neville, J., held that as the executor had not paid the debt he could not exercise his right of retainer, and his claim was therefore disallowed. In Ontario, however, a surety without paying the debt has been held to have a right of action for indemnity against his principal and in such an action the principal has been ordered to bring the money into Court to be employed in discharge of the debt: *c.g.*, see *Cunningham v. Lyster*, 13 Gr. 575; *McBurn v. Mackelcan*, 19 Ont. App. 729.

INSURANCE OF DEBENTURES—RE-INSURANCE—INDEMNITY—BANK-
RUPTCY OF INSURER—LIMIT OF LIABILITY UNDER CONTRACT OF
RE-INSURANCE.

In re Law Guarantee T. & A. Society, Liverpool Mortgage Insurance Co.'s Case (1913) 2 Ch. 604. This is another case concerning the liability of sureties under a contract of indemnity. The Law Guarantee Society had insured the payment of certain debentures and had re-insured 2/11ths of the risk with the Liverpool Mortgage Insee. Co. The Law Guarantee Society went into liquidation and a scheme was agreed to by the debenture-holders whereby they were to receive less than 20s. in the pound in satisfaction of their claims against the society, and the question for decision in this case was whether the society was beneficially entitled under the contract with the mortgage Insurance Co. of re-insurance to recover 2/11ths of the amount of the debentures, or 2/11ths of the amount agreed to be accepted in satisfaction, and Neville, J., determined that the society was only beneficially entitled to recover 2/11ths of the sum paid and to be paid by way of composition, and that if the company were entitled to recover the rest of the amount guaranteed, it could only do so as trustees for the debenture-holders, but this latter point he held was not before him, and therefore did not decide.