

recovered thereon, but including all claims and demands which could be made available under equitable execution.

*Held*, that the claim of the assured under a policy of insurance against loss by fire, which provided that the loss should not be payable until thirty days after the completion of the proofs of loss usually required, could not be attached by garnishing order before such completion, although the property insured had been burnt.

*Howell v. Metropolitan District Ry. Co.*, 19 Ch.D. 508, and *Central Bank v. Ellis*, 20 A.R. 364, followed. *Canada Cotton Co. v. Parmelee*, 13 P.R. 26, not followed.

The only kind of liability which may be attached under our statutes is a purely pecuniary one, and it must be absolute and not dependent upon a condition which may or may not be fulfilled.

*Held*, also, that the liability of the insurance company was not attachable because the policy contained a condition giving an option to the company to replace the destroyed property instead of paying the insurance money, if they should so decide within a certain time, which had not expired; so that it was not certain that any pecuniary liability would ever arise. Attaching order set aside.

*Ewart*, Q.C., and *Wilson*, for plaintiffs. *Howell*, Q.C., and *Mathers*, for defendant.

Full Court.] IN RE ST. BONIFACE ELECTION. [June 2.

*Election petition—Preliminary objections—Proof of deposit of security—Evidence that notes deposited were current money of Canada—Notice of presentation of petition—Manitoba Controverted Elections Act, R.S.M. c. 29, s. 22.*

Decision of BAIN, J., noted ante p. 245, affirmed with costs. *Andrews* and *Bernier*, for petitioner. *Wilson*, for respondent.

Full Court.] IN RE ROSENFELDT ELECTION. [June 2.

*Election petition—Preliminary objections—Manitoba Controverted Elections Act, R.S.M. c. 29, s. 18—Manitoba Election Act, R.S.M. c. 49, s. 196—Return to clerk of executive council and gazetting same before result of recount—Time for filing petition.*

The Returning Officer having made his return to the Clerk of the Executive Council pursuant to section 196 of The Manitoba Election Act, R.S.M. c. 49, but without waiting for the result of a recount of which he had received notice, the Clerk, as required by s. 20, published the election of the respondent in the next number of the Manitoba Gazette. The petition was filed on the last of the thirty days thereafter in accordance with section 18 of the Controverted Elections Act, R.S.M. c. 29. After the result of the recount was made known confirming the election of the