

3. The fact of the vendor insuring under such circumstances, being an assignee in bankruptcy, makes no difference from the case of an ordinary vendor. The insurable interest of such an assignee who contracts to sell is not less at all events than that of an ordinary vendor.

4. Where the words in a condition in a policy are: "if the risk be increased or changed by any means whatever," the term "change" must be held to be used rather as a synonym of "increase" than as a word of different signification. *Ottawa Co. v. Liverpool Ins. Co.*, 28 U.C.R. 522, approved of.

*Moss, Q.C.*, (*Muir* with him), for plaintiff.

*W. Cassels*, and *Laidlaw*, for defendants.

Boyd, C.]

[April 22.]

TRIBE V. THE LANDED BANKING CO.

*R. S. O.*, c. 164, s. 50.

*Semlé*: The above section is not limited in its application to what the Act refers to as "Permanent Building Societies."

Boyd, C.]

[April 22.]

SPROULE V. STRATFORD.

*Party wall—Easement.*

In the case of a party wall there is the right on the part of one owner to heighten that wall within certain limits, as, *e. g.*, when it can be done without injury to the adjoining building, and the wall is of sufficient strength to bear the addition. But this is subject to the right of the other owner to use the new part as a party wall, probably upon reasonable terms as to contribution towards the expense. And if the owner who thus heightens a party wall proceeds to pierce the wall for the purposes of a window, this amounts to distinct notice that he has ceased to regard the wall as a party wall, for party walls cannot have windows which open to the external air and admit light and air. The placing of the window is an attempt to change the wall in question, and to acquire rights therein which by lapse of time would prejudicially affect the other owner, and the further continuance of it may be enjoined. *Dicta* of *Mellish, L.J.*, in *Weston v. Arnold*, L.R. 8 Ch., App. 1091 cited and approved of.

*Bethune, Q.C.*, for plaintiff.

*Hardy, Q.C.*, (with him *Wilkes*), for the defendant.

Ferguson, J.]

[April 25.]

GILLIES V. MCCONOCHIE.

*Parties—Rule 98, 99.*

Motion by the executors of a will, (for the construction of which they had brought the present action), that it might be declared under rule 98, that the next of kin of the testator were sufficiently represented by those before the court.

There were certain charitable bequests in the will, which, if held invalid, would pass to the next of kin. Those who had been made defendants, and duly served with process and with notice of the present motion, were the widow of the testator, and four of his next of kin, being nephews and nieces of his, and the Attorney-General for Ontario.

It appeared that there was a very large number of next of kin, many of whom were not known, while the service upon others would be difficult and expensive.

Order granted under rule 98, on the ground that the next of kin were sufficiently represented by the parties before the court.

*Hoyle*, for the motion.

*Symons*, for next of kin who were made parties.

Boyd, C.]

[April 27.]

BANK OF COMMERCE V. BRICKER.

*Agreements between solicitors.*

Motion to vacate judgment and restore action to cause list for trial at the present sittings on the ground that defendant's solicitor had not been present at the hearing. As to costs, it was alleged by defendant's solicitor that there had been a verbal agreement between the solicitors of the parties, but there was a variance between the solicitors as to the actual agreement come to. The learned Chancellor said that the rule of Lord Bacon, requiring agreements between solicitors in reference to their client's causes to be in writing, was a wholesome one, and one that he intended to adhere to, and wherever there was a difference as to verbal agreements he would hold that the party relying on an alleged agreement must establish it by writing or he would pay no regard to it, it was impossible to enter on these motions into a nice calculation as to the weight of evidence upon such questions. In the present case, therefore, although it was reasonable that the defen-