

is also a residuary legatee, without notice of unsatisfied debts, or of anything making it improper for the executor so to deal with the asset, is entitled to hold as against any unsatisfied creditors, applies equally whether the transferee acquires a legal or only equitable title, provided that neither the Court nor the executor retains any control over the asset.

PRACTICE—SPECIAL CASE—QUESTIONS OF FACT—PROCEEDINGS EXTRA CURSUM CURIA—APPEAL—JURISDICTION—ORD. XXXIV., R. 1—(ONT. RULE 554).

*Burgess v. Morton*, (1896) A.C. 136, is a somewhat peculiar case in that the parties by special case sought to obtain the judgment of the Court on a question of fact. The parties were in conflict as to the facts, but stated in the case such facts as they were agreed on, but as Lord Halsbury observes, they did not state either the inferences of fact, or all the facts from which inferences were to be drawn. Having thus launched the case, they sought to make it subject to the ordinary consequences of appeal, as if the case had stated simply a question of law. When the case came before the Divisional Court, on the judges of that Court objecting that it was not properly a special case, they on the invitation of counsel nevertheless agreed to hear it and decide it as a question of fact. This judgment the Court of Appeal reversed. The appellant being dissatisfied with that decision, appealed to the House of Lords, but their lordships (Lords Halsbury, L.C., Watson and Shand) were unanimous that where, as in this case, the proceedings are extra cursum curia, the judgment of the Court is in the nature of an arbitrator's award, and is not appealable, if objected to—and where the Court of Appeal in such a case has entertained an appeal and reversed the decision of the Court below, the House has no jurisdiction except to reverse as incompetent the judgment of the Court of Appeal, which it did with costs.

STATUTE AUTHORIZING RENEWAL OF LICENSE—REPEAL OF STATUTE, EFFECT OF—VESTED RIGHT.

*Reynolds v. Attorney-General for Nova Scotia*, (1896) A.C. 240, may be briefly noticed as involving a point of general interest. By a statute of Nova Scotia licenses for working coal