

power of appointment, even though it be not valid according to the law of the domicile: *Murphy v. Deichler*, [1909] A.C. 446.

The learned Judge referred to the two cases cited by counsel for the children, and said that the English case was not *ad rem*; and that the Ontario case, while it decided that the law of Ontario governed, seemed to be placed upon the ground that in the English case it was decided that the validity of the declaration depended upon the law of the domicile.

The question was manifestly one of importance; and the motion should, therefore, be adjourned before a Divisional Court of the Appellate Division, where the reasoning upon which the *Sewell* case was founded can be reconsidered and reviewed.

Motion adjourned accordingly.

ALDERSON V. WATSON—BRITTON, J.—OCT. 15.

Landlord and Tenant—Assignment by Tenant for Benefit of Creditors—Landlord's Claim for Future Rent—Claims of Creditors—Distribution of Insolvent Estate—Priorities—Landlord and Tenant Act, R.S.O. 1914 ch. 155, sec. 38—Damages—Costs—Injunction—Judgment.—Motion by the plaintiff to continue an interim injunction restraining the defendant, his bailiff, servants and agents, from proceeding by distress and sale of the goods and chattels which were the property of one Goodbrand, who was the tenant of the defendant. The plaintiff was the assignee of Goodbrand, under a general assignment for the benefit of creditors, dated the 7th September, 1915. The lease from the defendant to Goodbrand was for the term of three years from the 1st January, 1914, making the rent payable, \$250 on the 1st October, 1914, \$250 on the 31st December, 1914, \$300 on the 1st October, 1915 and 1916, and \$300 on the 31st December, 1915 and 1916. The rent for 1914 had been fully paid before any seizure was made. The defendant seized for the full amount of rent for 1915 and 1916. The defendant asserted his right to do this by reason of what his tenant did in giving chattel mortgages and other things in violation of certain covenants contained in the lease. The defendant contended that, not only as against his tenant, but against the plaintiff, the assignee, and notwithstanding sec. 38 of the *Landlord and Tenant Act*, R.S.O. 1914 ch. 155, he was entitled in priority to the full two years' rent down to the end of 1916. BRITTON, J., said that all the