

Held, also, that neither the Imp. Act, 23 & 24 Vict., c. 129, nor the Ontario Rule 1129 founded upon it, gives a solicitor an absolute right to a lien for his costs upon property recovered or preserved through litigation, but only a discretionary power in the court to charge the property.

Appeal allowed with costs, and declaration made that the trustee has no right to profit costs as against any of the beneficiaries except his co-defendants, but without prejudice to any claim against the latter for costs, or to any application for remuneration as trustee under The Manitoba Trustee Act, or under any law of the Province of Ontario.

Phippen, for creditors, appellants. *Ewart*, K.C., for solicitor trustee.

Flotsam and Local Items.

CONSTRUCTION OF STATUTES. — The *Central Law Journal* says: "One of the most insidious temptations of courts or judges in arriving at the meaning of statute is to resort to intrinsic or contemporaneous construction whenever the words taken in their ordinary meaning do not appeal to their preconceived opinion as to what the law ought to be or what they think the Legislature had in mind. The intention of the Legislature or the evils they intended to remedy are absolutely immaterial where the words they have used, when taken in their ordinary usage, admit only of one interpretation." The writer refers to the following authorities as sustaining this position: *Southern R. W. Co. v. Local Union*, decided October 5, 1901, U.S. District Court, Memphis; *Lake County v. Rollins*, 130 U.S. 662; *St. Paul, etc., Railway v. Phelps*, 137 U.S. 528; *Hamilton v. Rathbone*, 175 U.S. 414, 419; *Dewey v. United States*, 178 U.S. 510, 521. It may seem unnecessary to refer to the matter here, but the temptation to deviate from the above wholesome rule is so great that the judicial mind seems sometimes to be unconsciously swayed from the straight line.

UNITED STATES DECISION.

THE piling of railroad cross-ties in a street is held, in *Kramer v. Southern R. Co.* (N.C.), 52 L. R. A. 359, not to make a railroad company liable for the death of a child on whom the ties fell while trying to climb upon them, where the company did not know that children were in the habit of resorting there to play. The turntable cases are held inapplicable.

DICTATION of a libelous letter to a confidential stenographer is held, in *Gambrill v. Schooley* (Md.), 52 L. R. A. 87, to be sufficient to constitute a publication of the libel.