

The County Court judge decided that he had no jurisdiction to hear the appeal, because notice of the appeal had not been given within ten days after the decision as required by the statute. The tenth day after the decision fell on a Sunday, and the notice was given next day.

The applicant's counsel contended that such notice was in sufficient time, and relied upon clause (s), s. 8, of the Interpretation Act, R.S.M., c. 78, which is worded as follows :

"When anything required to be done by any Act of the Legislature of Manitoba falls on a holiday, it shall be done on the next day not a holiday."

*Held*, that this provision does not apply in a case like the present, and that the notice was too late, and the mandamus was refused.

*C. H. Campbell, Q.C.*, for the applicant.

*H. M. Howell, Q.C.*, for the plaintiff.

TAYLOR, C.J.]

[Aug. 8.

RE HAMILTON TRUSTS.

*Costs—Payment into court by trustee—Petition for payment out.*

A loan company, having executed a power of sale in their mortgage, paid into court, under the Trustee Relief Act, a surplus over what was due them, there being rival claimants to the fund. One of the claimants then presented a petition praying that inquiries might be made and accounts taken to ascertain who were entitled to the fund, and for payment to him of the amount of his claim and costs, and asking that the other claimant, one Drewry, might be ordered to pay the costs of the petition.

Drewry had claimed a larger sum than he was ultimately found to be entitled to by the decision of the full court.

On the matter coming before the court for the determination of the question of costs,

*Held*, that, both parties being entitled to share in the fund, each should bear his own costs, except in so far as they were increased by Drewry claiming more than he was entitled to, and that any increased costs occasioned by such unfounded claim should be paid by him to the petitioner.

*Monkman* for the petitioner.

*Perdue* for Drewry.

TAYLOR, C.J.]

[Aug. 17.

COLQUHOUN v. SEAGRAM.

*Husband and wife—Assignment of debt by husband to wife—Garnishee—Interpleader.*

This was an appeal from the decision of the judge of the County Court of Winnipeg, in an interpleader issue to decide upon the claim of the plaintiff to certain moneys paid into court by a garnishee under an order issued by the