

of the proceeds of the sale of the "Boisner" farm.

Stockman v. Stockman, 13 E.L.R. 391.

"PROPERTY SITUATED IN ONTARIO"—TESTATOR DOMICILED IN ONTARIO—SHARES OF DOMINION RAILWAY COMPANY STOCK—HEAD OFFICE OF COMPANY IN ANOTHER PROVINCE—CERTIFICATES KEPT IN ONTARIO—REAL PROPERTY IN SASKATCHEWAN AND ALBERTA—INTENTION OF TESTATOR—DIVISION OF PROPERTY AMONG CHILDREN—EQUAL DIVISION—"REAL PROPERTY"—SITUS OF PERSONAL PROPERTY.

Re Lunness, 17 O.W.N. 186.

EXECUTORS—DIRECTION IN WILL TO CREATE TRUST FUND OF SPECIFIED AMOUNT—AGREEMENT MADE BETWEEN EXECUTORS AND BENEFICIARIES OF FUND—BENEFICIARIES ENTITLED TO INCOME ON FULL AMOUNT FROM DATE OF AGREEMENT BUT NOT BEFORE—EXPENSE OF ADMINISTERING FUND—SALE OF BANK-SHARES—DUTY OF EXECUTORS.

Re Elliott, 16 O.W.N. 377.

REQUEST OF MONEY TO MARRIED DAUGHTER—DIRECTION FOR SETTLEMENT OF FUND—DUTY OF EXECUTORS—INTENTION OF TESTATOR.

Re Pratt, 16 O.W.N. 268.

SUMMARY APPLICATION—PARTIES—HEIRS AT LAW AND NEXT OF KIN.

Re Page, 9 O.W.N. 280.

ORIGINATING NOTICE—PARTIES—SERVICE.

Re Green, 9 O.W.N. 429.

DETERMINATION OF QUESTION ARISING UPON—DIRECTION FOR TRIAL UPON ORAL EVIDENCE—RULE 606 (1).

Re Mailloux, 11 O.W.N. 355.

SUBSTITUTION—AMBIGUITY.

The appellé of the substitution and the owner under suspensive condition, as under resolutive condition, may dispose of their property rights; this right is immediate and actual and if its existence or extent is contested an action will lie to have it recognized and determined. When a provision in a will is ambiguous recourse may be had for its interpretation not only to other parts of the will, but to any evidence outside of it, to get at the intention of the testator.

Germain v. Clavel, 51 Que. S.C. 165. [Reversed sub nom. Perger v. Clavel, 42 D.L.R. 771, 55 Can. S.C.R. 633.]

PETITION TO CONSTRUCT—ORIGINATING NOTICE.

Re Rally, 25 O.L.R. 112, 20 O.W.R. 482. CONSTRUCTION—MOTION FOR BY EXECUTORS—INTENTION OF TESTATRIX—GRAND-CHILDREN TAKE SHARE OF DECEASED MOTHER.

Re Rueber, 3 O.W.N. 102, 20 O.W.R. 91.

WINDING-UP.

See Companies, VI.

Annotation.

The Canadian Bankruptcy Act, 1920: 53 D.L.R. —.

WITNESSES.

I. COMPETENCY.

- A. In general.
- B. Husband or wife.
- C. Effect of death.

II. EXAMINATION.

- A. In general.
- B. Cross-examination.
- C. Privilege.

III. IMPEACHING; DISCREDITING; CORROBORATING.

IV. CREDIBILITY.

V. FEES.

Annotations.

Competency of wife in crime committed by husband against her; criminal non-support; Cr. Code, s. 242a: 17 D.L.R. 721.

Medical expert witnesses: 38 D.L.R. 453. Proof of handwriting and questioned documents: 44 D.L.R. 170.

I. Competency.

A. IN GENERAL.

Of evidence, see Evidence.

Witness fees, see Costs.

(§ I A—1) — DISQUALIFICATION — COMPETENCY OF ONE NOT ONTARIO LAND SURVEYOR.

Sections 3, 25 of 1 Geo. V., c. 41 (Ont.), respecting land surveyors, do not prohibit a surveyor who is not an "Ontario land surveyor" from testifying as to surveys made by him, although the weight of this testimony may be measured in some degree by s. 25.

Cardwell v. Breckenridge, 11 D.L.R. 461, 24 O.W.R. 569, 4 O.W.N. 1295.

(§ I A—2) — TESTIMONY OF PURCHASER AS TO VALUE OF SHIPMENT LOST BY CARRIER.

In an action against the defendant company to recover the value of two black fox pups and one cross pup, part of a lot of nine shipped at Dryden in Ontario, to be delivered to the plaintiffs at Sackville, N.B., on the ground that the three foxes died of suffocation on the journey through the negligence of the employees of the defendant company. Held, that a part owner who had purchased the foxes and who stated in his evidence that there were several fox ranches where he lived, that he knew the market value of foxes from what people said and from what he had read, and that he had been engaged in the fox business to a considerable extent since making the purchase, was a competent witness to prove their value.

Trenholm v. Dominion Express, 43 N.B.R. 98.

(§ I A—4) — RELIGIOUS BELIEF.

A witness in a criminal case is not entitled to affirm in lieu of being sworn unless he states that he objects to the oath on conscientious scruples; a mere statement of his preference to affirm and that he considered it optional is insufficient to make legal his testimony given on affirma-