

dealt with or interfered with by the votes or other acts of those who had absolutely no beneficial interest in these shares. Injunction continued till the trial; costs of the motion to be disposed of by the trial Judge. G. H. Watson, K.C., and S. J. Birnbaum, for the plaintiffs. R. McKay, K.C., and A. G. Slaght, for the defendants.

UPPER CANADA COLLEGE v. CITY OF TORONTO—
FALCONBRIDGE, C.J.K.B.—APRIL 25.

Municipal Corporations—Assessment and Taxation for Local Improvements—Liability of School Corporation—Local Improvement By-laws—Widening of Street—Powers of Municipality—Action for Declaration and Injunction—Costs.]—Action for a declaration that three local improvement by-laws of the defendants, in respect of the widening of Oriole road and parkway, were ultra vires and void, upon the ground that the majority of owners of property assessed had not given their consent, and upon other grounds, and for an injunction restraining the defendants from proceeding with the work. The action was tried without a jury at Toronto. The learned Chief Justice said that the chief point in the case was whether or not the plaintiffs were liable for assessment and taxation for local improvements; and upon that and the minor points involved he adopted the contentions of counsel for the defendants and of counsel for P. W. Ellis and others, who was heard as amicus curiæ. The action should be dismissed. The parties were public bodies—both trustees—and each (no doubt in good faith) asserting what each believed to be just rights, and so there should be no order as to costs. The amendment asked for by the plaintiffs at the trial should be allowed. Frank Arnoldi, K.C., and D. D. Grierson, for the plaintiffs. Irving S. Fairty, for the defendants. H. E. Rose, K.C., for P. W. Ellis and others.

McLEOD v. McILMOYLE—FALCONBRIDGE, C.J.K.B.—
APRIL 27.

Contract—Action for Money Payable under—Counterclaim for Rectification—Failure to Establish—Evidence.]—Action to recover \$4,655 upon an agreement. The defendant counterclaimed for rectification of the agreement and for the return of \$75 paid. The action was tried without a jury at Peterborough. The learned Chief Justice said that the attempt of the defendant to make out a case for reformation failed; and the testimony of the plaintiff