

County Court Clerk is directory and not imperative, and recovery is not barred where notice of the claim is duly given to the municipality and an action commenced within the time limited, but a copy of the notice is not filed.

A notice that the claim is for damages sustained "by reason of the enlargement and construction" of the drain in question is sufficient to support a claim for damages for interference because of the drain, with access to part of the claimant's farm. Judgment of the Drainage Referee affirmed.

M. Wilson, Q.C., for appellants. W. Douglas, Q.C., for respondent.

From Street, J.] IN RE CURRY, *CURRY v. CUKRY*. [May 5.
Improvement on land—Tenant in common—Allowances—Interest—Practice
—Master's office—Accounts.

A tenant in common who holds possession of and manages the common property is entitled when called on for an account by his co-tenant to his proper and reasonable expenditure for repairs and improvements with interest from the time the expenditures are made. Judgment of STREET, J., affirmed.

Where accounts are brought into the Master's office with the vouchers and the usual affidavit of verification, and no notice of objection is given, the accounts are taken to be sufficiently proved. Judgment of STREET, J., 33 C.L.J. 342; 17 P.R. 379, affirmed.

McCarthy, Q.C., and O. E. Fleming, for appellants. S. H. Blake, Q.C., and R. F. Sutherland, for respondents.

Practice.] STAR LIFE ASSURANCE SOCIETY *v.* SOUTHGATE. [May 10.
Judgment—Action on bond—8 & 9 Wm. III., c. 11—Rule 580—Procedure—
Penalty—Assessment of damages—Motion for judgment—Rule 593.

In an action upon a bond conditioned for the payment of a sum of money by instalments, with interest in the meantime on the unpaid principal, by Rule 580, the provisions of 8 & 9 Wm. III., c. 11, as to the assignment or suggestion of breaches, and as to judgment for the penalty standing as a security for damages in respect of future breaches, are in force in Ontario; but in all other respects the practice and proceedings are the same as in an ordinary action, and subject to the Rules. The claim in such an action is not the subject of a special indorsement under Rules 138 and 603, but it is in the nature of a claim for damages. Upon the defendant in such an action making default in delivering a defence, judgment is to be obtained by the plaintiffs by motion under Rule 593, and should be for the penalty, and for assessment of damages for the breaches assigned or to be suggested in such way as may be thought proper under Rules 578, 579. When the action comes for assessment of damages before a Judge sitting for the trial of actions, he can do no more than assess the damages in respect of the breaches of the bond for which execution is to be issued.

Shepley, Q.C., G. C. Campbell and Frank Denton, for the appellants. Ludwig, for respondents.