

to which they mounted upon the trial of this action. It was impossible entirely to separate Emily L. Whiting, J. S. Whiting, and the plaintiff. There was no way of reaching the fair amount to be allowed by any species of mathematical calculation. Neither was it right that the defendants should be dealt with separately. Considering and taking into account all the evidence given by the company of wrongs said to have been committed by the plaintiff's agent, the net result of all the evidence at the trial, was a judgment dismissing the counterclaim and awarding the plaintiff \$600 with costs against both defendants, the money paid into Court to be applied thereon pro tanto. J. T. McGillivray, for the plaintiff. James A. Kenney, for the defendants.

ROOS v. SWARTS—SUTHERLAND, J.—Nov. 18.

Master's Report—Evidence — Appeal — Motion for Judgment —Dismissal of Cross-action.—The motions not disposed of by the judgment of SUTHERLAND, J., 10 O.W.N. 446, were renewed, an order having been made appointing a personal representative of the estate of Edward R. Swarts, and reviving the action in the name of such personal representative as a defendant. The motions were heard in the Weekly Court at Toronto. The learned Judge, after setting out the facts and discussing the contentions of the parties, said that he had come to the conclusion that the orders asked for by the two notices of motion given on behalf of the plaintiff Roos should be made with costs, and that the order asked on the part of the defendant Swarts should be refused with costs. C. Garrow, for the plaintiff. L. E. Dancey, for the defendant.

LONGSTREET v. SANDERSON—FALCONBRIDGE, C.J.K.B.—Nov. 18.

Executors — Right to Property of Testator—Intention of Relatives in Possession of Assets to Oppose Grant of Probate of Will—Injunction.—Motion by the plaintiffs to continue an interim injunction restraining the defendants from in any way dealing with or interfering with the assets of the estate of the late Charles W. Sanderson. The motion was heard in the Weekly Court at Toronto. FALCONBRIDGE, C.J.K.B., in a written judgment, said that the plaintiffs derived their title from the will of the deceased, and the property of the testator vested in them from the moment