

his attendance at the trial is \$20; but, "if the trial lasts more than one day, then for each additional day \$20."

This trial in fact lasted more than one day but less than two days. The first day begins at the hour of the opening of the case and ends 24 hours thereafter; and so with the second day.

But the fact that the two cases were tried together did not debar the plaintiff from being allowed a fee in each. Where the quantum of the fee is discretionary, the trial of two cases together is an element to be considered; but where the quantum is fixed the fee provided must be allowed: *Price v. Clinton*, [1906] 2 Ch. 487; *Petrie v. Guelph Lumber Co.* (1885), 10 P.R. 600.

In each action \$40 should be taxed, or \$80 in all. In the result, \$20 should be added to the \$60 taxed.

No costs of the appeal.

MIDDLETON, J.

JANUARY 28TH, 1918.

#### RE McGRATH.

*Executors—Passing Accounts—Payment to Widow out of Personality of Lump Sum in Lieu of Dower in Land Devised to Son—Allowance to Executors as Compensation for Services—Charge of Part of Sums Paid on Land—Exoneration of Personality pro Tanto—Costs.*

An appeal by the Official Guardian, representing infants interested in the estate of one McGrath, deceased, from rulings of the Judge of the Surrogate Court of the County of Lennox and Addington upon the audit of the accounts of the executors.

The appeal was heard in the Weekly Court, Toronto.

E. C. Cattanaeh, for the Official Guardian.

W. A. Grange, for the executors and the son of the testator.

MIDDLETON, J., in a written judgment, said that the testator gave his land to his son, and legacies payable out of personal property to his daughters. He gave his wife certain money in lieu of her dower. She seemed to have elected against the will, and to have claimed her dower, and also money lent her husband.

The son was an infant, and during his minority the income from the land was to be treated as being part of the personal estate.

The executors had paid the widow a lump sum for her dower; and this, as well as the executors' compensation for their care of