were assets properly divisible between the township and the new village municipalities.

Re Albemarle, etc., 45 U.C.R., 133, referred to and distinguished.

E. D. Armour, for the plaintiffs.

J. K. Kerr, Q.C., for the defendants.

Practice.

ROBERTSON, J.] [Jan. 9, 1889.

MOSES v. MOSES.

Costs—Scale of—Jurisdiction of Division Court—Ascertainment of amount.

The defendant signed a writing in these words: "Brantford, Oct. 9th, 1886. If anything happens to me sudden, this is to insure my son Joseph (the plaintiff) to take $100 from his sister Hannah's share, to repay money lent to her. If I live until this time next year I will settle it with him."

Held, that this was not a sufficient ascertainment of the amount due, by the signature of the defendant, within the meaning of R.S.O., c. 51, s. 70, to allow of a claim upon it and other items (amount to about $60), being joined in a Division Court action.

McDermid v. *McDermid*, 15 A.R. 287, followed.

Re Graham v. *Tomlinson*, 12 P.R. 367, referred to.

Aylesworth, for plaintiff.

Fullerton, for defendant.

ROBERTSON, J.] [Jan. 9, 1889.

ODELL v. BENNETT.

Counter-claim—Slander—Mortgage action—Inconvenience—Delay—Rule 374.

A counter claim for damages by reason of false and depreciatory statements with regard to the value of the mortgaged premises having been set up by the defendants in an ordinary mortgage action, an order striking it out under Rule 374 was affirmed, as well on the ground of inconvenience in trying the action and counter claim together, as on the ground that the counter claim was filed for delay.

McLean v. *Hamilton Street Railway Co.*, 11 P.R. 193, and *Central Bank* v. *Osborne*, 12 P.R. 160, followed.

E. T. English, for the plaintiff.

Hoyles, for the defendants.

BOYD C.] [Jan. 10, 1889.

NIAGARA FALLS PARK COMMISSIONERS v. HOWARD.

Discovery—Part. clars—Title—Form of order—Disclosing evidence relied on.

The practice in ordering particulars depends in this Province on the inherent jurisdiction of the Court to prevent injustice being done, the rules in force in England not having been adopted here.

In an action of trespass to land, the defendants pleaded a lease from the Dominion Government, and that the lands had been vested in the Government as ordnance lands. This was pleaded in an unexceptionable manner, and no affidavit was filed by the plaintiffs to show that they were unable to reply without further disclosure; yet an order was made by the Master in Chambers for particulars of the facts and means by which, and the time at which, the lands became ordnance lands. It did not appear that the defendants had any special means of information as to the matter of title, not open to the plaintiffs.

Held, that the order was wrong in form; the utmost should have been to declare that the defendants should not be allowed to give evidence in support of this part of their defence, except in so far as they furnished particulars.

But even such an order as indicated should not have been made in this case; for a party is not obliged to disclose upon what evidence he relies, or by what means he is going to prove his contention.

Irving, Q.C., for the plaintiffs.

H. Symons, for the defendants.

STREET, J.] [Jan. 11, 1889.

RE PRITTIE TRUSTS.

Trustees—Remuneration—Exchange of securities—Collection of rents.

Trustees under a marriage settlement exchanged an investment of the estate in Manitoba lands into the stock of a land company. Nothing by way of income had ever been realized from either land or stock, and it was stated that both were valueless. The responsibility of making the exchange was taken away by the consent of the persons interested.

Held, that a percentage upon the nominal value of the stock was not the way to arrive