

setting aside the foreclosure as against him, and giving him leave to redeem. All proper and necessary parties may be added. The order may issue as a Court order.

No costs of this application nor of any of the motions here or below to any party.

MIDDLETON, J.

APRIL 11TH, 1916.

ELLIS v. CITY OF TORONTO.

Highway — Nonrepair—Injury to Traveller—Cause of Action—Notice of Injury—Municipal Act, R.S.O. 1914 ch. 192, sec. 460 (4)—Time for Service—Expiry on Sunday—Service on Next Day—Interpretation Act, sec. 28 (h).

Motion by the defendants to dismiss the action, which was brought to recover damages for injury sustained by the plaintiff by a fall upon a highway, by reason of nonrepair, as the plaintiff alleged.

The motion was made upon the ground that no cause of action was shewn because the notice required by sec. 460 (4) of the Municipal Act, R.S.O. 1914 ch. 192, was not given within seven days, the time prescribed by the enactment.

The motion was heard in the Weekly Court at Toronto.
Irving S. Fairty, for the defendants.
G. W. Adams, for the plaintiff.

MIDDLETON, J., held that sec. 28 (h) of the Interpretation Act, R.S.O. 1914 ch. 1, applied, and extended the time for giving the notice, the seven days having expired on a Sunday, and the notice having been served on the following Monday.

Motion dismissed with costs to the plaintiff in any event.

KELLY, J.

APRIL 11TH, 1916.

RE GREEN.

Will—Construction—Devise and Bequest of whole Estate to Widow for Life—Right of Widow to Encroach on Capital of Personalty for Maintenance — Right to Income of Realty.

Application by the Capital Trust Corporation Limited, administrator with the will annexed of the estate of Philip Green, deceased, for an order determining certain questions as to the construction of the will, arising in the administration of the estate.