

of creditors to G. T. Clarkson. Thereafter, on the 18th September, 1918, the plaintiff filed with Clarkson a claim for moneys had and received by the firm to his use and other moneys. The plaintiff in an affidavit in support of his claim stated that he held no security therefor. At the instance of Clarkson, a notice of contestation of the claim was served upon the plaintiff on the 19th May, 1919; and no action was ever taken by the plaintiff thereafter to establish the claim against the assets of the defendant firm in the hands of the assignee.

The claim of the plaintiff in this action was undoubtedly the same as that filed with the assignee pursuant to the Assignments and Preferences Act, R.S.O. 1914 ch. 134, sec. 26. By sec. 27 of the Act it is provided (1) that, at any time after the assignee receives proof of claim, notice of contestation may be served; and (2) within 30 days after the receipt of the notice, or within such further time as the Judge may allow, an action shall be brought by the claimant against the assignee to establish the claim; and, in default of such action being brought within that time, the claim to rank on the estate shall be forever barred. By sec. 2, "the Judge" means a Judge of the County or District Court. It appeared that no action was brought within the 30 days, and no order was obtained from a County Court Judge extending the time beyond 30 days.

In these circumstances, the Master could not properly make the order now in appeal, and it should be set aside with costs.

The learned Judge expressed no opinion as to whether the plaintiff could still properly apply to a County Court Judge for further time; but the order now made should be without prejudice to such an application.

ROSE, J., IN CHAMBERS.

OCTOBER 1ST, 1919.

MCKAY v. TORONTO R.W. CO.

*Pleading—Statement of Claim—Action for Damages for Negligence
Causing Personal Injuries—Particulars of Injuries Suffered.*

Appeal by the plaintiff from so much of the order of one of the Registrars sitting in lieu of the Master in Chambers, as required the plaintiff to deliver particulars of the personal injuries alleged in para. 3 of the statement of claim to have been sustained by the plaintiff.

A. C. Heighington, for the plaintiff.
W. J. Beattie, for the defendants.