

under the covenants in the conveyance against incumbrances and for quiet enjoyment, to recover from the defendant as damages a sum sufficient to remove the charge. A vendor of lands, upon which a local improvement rate is imposed, should, therefore, provide in the agreement of sale that the purchaser shall take the lands subject to the rate. Otherwise the purchaser may, before conveyance (and after conveyance, if the vendor has petitioned the corporation for the improvements, or has been in any way instrumental in creating the charge), compel him to commute the rate and remove it as an incumbrance upon the lands, or deduct a sum out of the purchase money sufficient to answer the charge. For the present sittings of the court, commencing on the 13th, there are thirty cases set down on the list, among which is the celebrated case of *Connec v. C. P. Railway*. Three cases have been postponed for the convenience of counsel and until the services of an *ad hoc* judge can be procured. There have been no arrears in the court for some time past, and the judges, we believe, complain that the business of the court is delayed on account of counsel not being ready to proceed with their cases when called. We do not see why any different rule should prevail in the Court of Appeal than at the Assizes, and if counsel are not ready to proceed, or where no adequate grounds are stated for postponement, the cases should be struck off the list or dismissed, and no subsequent application for reinstatement of the cases be considered. If this rule were rigidly adhered to, junior counsel might have an opportunity for counsel work which is at present monopolized by leading counsel.

#### FUNDS IN COURT.

It is not our purpose to trace out the history of events which have resulted in the present practice of payment into court, or the relations of the court to the funds paid in, but rather to point out how the matter stands at the present time in regard to funds standing in court. The history of the Court of Chancery in Ontario, whose jurisdiction in regard to money paid in, including that of the former Courts of Queen's Bench and Common Pleas, is now vested in the High Court of Justice, shows that from very small beginnings the general balance in court has risen to a very large sum indeed. So far as the information at our command enables us to speak, this balance now amounts to upwards of \$2,100,000. This sum consists of moneys resting in court for an infinite variety of reasons, some of which are that the persons entitled are minors, or of unsound mind; that the moneys are subject to a trust for unascertained persons, and subject or not to life-tenancies of some known individuals; or sometimes the funds are waiting for the happening of some event entitling some one to apply for the moneys; or, as is too often the case, the moneys are in court by reason of the default of trustees, or simply because there is no trustee.

The care of a fund consisting of so many different items, and with so many different interests to be conserved, would be in itself a very grave charge for a corporation specially organized for the purpose; yet up to the present time the