administrator did not care to take the responsibility of distributing without an order from the Court, an order might be issued, after notice had been given by registered mail or otherwise to some of those opposed in interest to the applicant. If he desired protection, he could obtain it only after notice.

BOYD, C.   JUNE 20TH, 1916

*BARBER v. WADE.

Assignments and Preferences—Assignment for Benefit of Creditors— Claim of Mortgagee-creditor to Rank on Estate — Valuing Security—Action for Foreclosure Begun and Prosecuted to Judgment—No Actual Redemption or Foreclosure—Contestation of Claim by Assignee—Action for Declaration of Right— Creditor not Barred—Terms of Relief—Judgment—Costs— Assignments and Preferences Act, R.S.O. 1914 ch. 134, secs. 25 (4), 27.

Motion by the plaintiff for judgment on the pleadings in an action by a mortgage-creditor of one Steen, who made an assignment for the benefit of creditors, under the Assignments and Preferences Act, R.S.O. 1914 ch. 134, for a declaration of the plaintiff's right to rank upon the estate of Steen in the hands of the defendant, as assignee, for the amount of a claim filed by the plaintiff against the estate.

The motion was heard by BOYD, C., in the Weekly Court at Toronto.

J. A. Paterson, K.C., for the plaintiff.

Frank Denton, K.C., for the defendant.

THE CHANCELLOR, in a written opinion, setting forth the facts, said that the plaintiff had brought an action against Steen, the mortgagor, his wife, and the defendant and his predecessor as assignee, upon the mortgage, for payment or foreclosure, and had obtained judgment by default; the actual redemption or foreclosure had not yet taken place; time being current under the Master's report. The plaintiff, when he filed his claim with the defendant, placed it at $14,266, and valued his security at $13,200. The defendant served notice of contestation of the claim; and this action was brought by the plaintiff, claiming to rank on the estate for $1,066, the amount of his claim over and above the value placed on the security.