

5. The rule that a trustee acting as a solicitor of the trust is entitled to costs out of pocket merely, applies only when the costs are payable out of the trust funds; not when payable by an adverse party.

Meighen v. Buell, ante page 503, referred to and distinguished.

Colonial Trust Co. v. Cameron, 548.

See also "Parol Evidence to Establish a Trust."

ULTRA VIRES.

The Ontario Statute (38 Vict. ch. 65) is not *ultra vires*, so far as it affects companies incorporated by Acts of the Legislature of Canada. As to any such company transacting business in Ontario, on any subject within the powers of the Provincial Legislature, that body may impose what conditions it pleases on the operations of the company.

Billington v. The Provincial Ins. Co., 299.

UNDUE INFLUENCE.

W., the holder of a policy of insurance on his life, who had fallen into habits of intemperance, which greatly enfeebled his bodily health, although his mental faculties remained sufficiently unimpaired to enable him to understand business, assigned this policy to *T.*, his brother-in-law, a clergyman, for his own benefit; and on the following day made his will, appointing *T.* his sole executor, and thereby bequeathed his effects, which were of but trifling value, to several of his relatives. No entry of the assignment of the policy was made in the books of the insurance company, and the premium afterwards paid was paid in the name of *W.* *T.*, on applying for payment of the insurance money, represented himself as the assignee and executor of the deceased.

Held, on rehearing, affirming the decision of *BLAKE, V. C.*, as reported *ante* vol. xxii., p. 547, that the circumstances were not such as shifted the onus of proof, and called for evidence on the part of *T.* that the assignment was *bona fide*, and that he had not exercised any influence over the deceased in obtaining the same.

Re White-Kersten v. Tane, 224.

UNJUST PREFERENCE.

1. It is incumbent on a party seeking to impeach as an unjust preference a transaction between a debtor and his creditor occurring more than thirty days before insolvency, to prove that such transaction took place in contemplation of insolvency.

Suter v. The Merchants' Bank, 365.