

lute benefit, but subject to be used for the purpose of indemnifying the estate of the insured, which was doubtful,—it should, at any rate, only be by means of some writing. There should at least be something evidencing the trust or obligation as formal as the Act requires in the case of changes, in the designation of or appointment among the beneficiaries.

J. M. Glenn and W. L. Wickett, for the appellant.

Maxwell, for the plaintiff and defendants David H. Gooding, and Mary E. Mills.

F. W. Harcourt, for the infant defendants.

MASTER IN CHAMBERS.]

[Sept. 11.

TORONTO TYPE FOUNDRY CO. *v.* TUCKETT.

Action—Dismissal—Default—Rules 434, 542.

Rule 434 provides that "in actions in the County of York, to be tried without a jury, if the plaintiff does not set down the action for trial within six weeks after the pleadings are closed and proceed to trial as provided in Rule 542, the action may be dismissed for want of prosecution."

Held, that unless there is default both in setting down and in proceeding to trial, an action cannot be dismissed.

C. W. Kerr, for the plaintiffs.

H. Cassels, for the defendant.

ARMOUR, C.J., FALCONBRIDGE, J., }
STREET, J.

[Sept. 15.

ALDIS *v.* CITY OF CHATHAM.

Municipal Corporations—Highway—Negligence—Accident—Notice of—55 Vict., c. 43, s. 531 (1)—57 Vict., c. 50, s. 13—59 Vict., c. 51, s. 20.

The latter part of the clause added to s. 531 (1) of the Consolidated Municipal Act, 1892, by 57 Vict., c. 50, s. 13, as amended by 59 Vict., c. 51, s. 20, whereby it is provided that "no action shall be brought to enforce a claim for damages under the sub-section unless notice in writing of the accident and the cause thereof has been served," applies to all cases of non-repair of highways, etc., and is not confined to cases where the non-repair is by reason of the corporation not removing snow or ice from the sidewalks.

Drennan v. City of Kingston, 23 A.R. 406, discussed.

Edwin Bell, for the plaintiff.

W. Douglas, Q.C., for the defendants.

ARMOUR, C.J., FALCONBRIDGE, J., }
STREET, J.

[Sept. 17.

REGINA *v.* WILLIAMS.

Criminal law—Crown case reserved—Rejection of evidence—Discharge of prisoner—Service of case—Motion for new trial.

Crown case reserved by ROBERTSON, J., at the Napanee Assizes.

The defendant was tried upon an indictment for manslaughter. He had appeared at the coroner's inquest as a witness, and given his evidence, not being then