

judgment—Right to recede from admission — Costs.] — *Croft v. McKechnie* (1913), 25 O. W. R. 573; 5 O. W. N. 606.

Jury—*Motion for—Surrogate action—Enlargement of motion—Determination by trial Judge.*]—*Meredith, C.J.C.P.*, enlarged a motion for an order for a trial by jury in an action transferred from a Surrogate Court to the Supreme Court of Ontario to be disposed of by the trial Judge. *Murphy v. Lamphier* (1913), 25 O. W. R. 848; 5 O. W. N. 924.

Notice of—Time for—Computation—New Rule 248. — *Meredith, C.J.C.P.*, held, that Rule 248 means that no case shall be set down for trial until after a 10 days' notice of trial has been given; and then it shall be set down six days before the sittings of the Court. That there was no intention to extend the long standing 10 days' notice. *Healey-Page-Chaffons v. Bailey* (1913), 25 O. W. R. 75; 5 O. W. N. 113.

Postponement—Action—Dismissal.] — *Sup. Ct. Ont. (2nd App. Div.)* held, that plaintiff cannot choose his own Judge to hear his action, and if he refuses to proceed with his action when it comes on for trial it should be dismissed with costs. *Broom v. City of Toronto et al.* (1913), 25 O. W. R. 314.

Stated case—Municipal corporations—Gas and electric company—Powers of—Street lighting — Facts inadequately stated—Refusal of Court to express an opinion.]—*Riddell, J.*, refused to give an opinion upon a stated case where the facts upon which the case was based were inadequately stated, and it would have been necessary for the Court to draw inferences which were little short of guesswork. — *Bulkeley v. Hope*, 8 D. M. & G. 36, followed. *Sarnia Gas & Electric Light Co. v. Town of Sarnia* (1913), 25 O. W. R. 415; 5 O. W. N. 532.

Unreadiness of party for —Order for payment of opponent's costs occasioned by default—Dismissal of action in default of payment—Costs. *Broom v. Royal Templars* (1913), 25 O. W. R. 250.

TRUSTS AND TRUSTEES.

Accounting — New trustees — Improper intermingling of trust funds with personal assets or trustee — Death of

trustee — Knowledge of representative.] — *Kelly, J.*, gave judgment for the appointment of new trustees and an accounting where it was shown that the assets of a trust estate and those belonging to the trustee had been intermingled. *Godkin v. Watson* (1913), 25 O. W. R. 718; 5 O. W. N. 811.

Application for delivery of securities by trustees—Trustee Act—Jurisdiction of Court.] — *Falconbridge, C.J.K.B.*, held, that the Court had no jurisdiction, under the Trustee Act, to order trustees to hand over certain securities and papers to a party to the trust deed. *Re Consolidated Gold Dredging & Power Co.* (1913), 25 O. W. R. 281; 5 O. W. N. 346.

Executors — Action against—Evidence to establish contract between plaintiff and testator—Corroboration—Laches—Acquiescence — Statute of Limitations—Trust—Company—Shares—Delivery of—Dividends — Appropriation — Waiver—Costs.]—Action against the executors of one Currie, deceased, to compel the transfer to the plaintiff of ten shares of capital stock of the Ford Motor Co., pursuant to an alleged contract between the plaintiff and the deceased, or for damages or other relief. — *Lennox, J.*, gave plaintiff judgment declaring him entitled to the 10 shares, holding that plaintiff had established a definite contract. That the Statute of Limitations had no application. That deceased was trustee for plaintiff of these ten shares, they being specific and ear-marked. *McGreggor v. Currie Estate* (1913), 25 O. W. R. 58; 5 O. W. N. 90.

Investment of estate fund—Proposed loan to beneficiary — Application for "opinion, advice or direction" under Trustee Act, 1 Geo. V. c. 26, s. 65—Scope of—Restraint on anticipation—Creation of lien breach of trust—Insufficient security—Costs.]—*Lennox, J.*, held, that an executor had no right to loan one of the beneficiaries of the estate the sum of \$3,500 upon security worth \$11,000 and a lien upon the said beneficiary's interest in the estate, as to which she was restrained from anticipation. *Re Hamilton Estate* (1913), 25 O. W. R. 198; 5 O. W. N. 230.

Lands purchased by mother—Deed taken in daughter's name — Im-providence—Absence of independent advice—Declaration of trust.]—*Britton, J.*, gave judgment for the plaintiff in an action to have it declared that defendant was the trustee of certain lands for the plaintiff, holding that the plaintiff, a