

## KING'S BENCH.

Macdonald, J.]

IN RE BEDSON ESTATE.

[Jan. 18.]

*Statute of Limitations—Administration of estates—King's Bench Act—Manitoba Trustee Act.*

Application by the administrator of the estate for the advice and direction of a judge under s. 42 of the Manitoba Trustee Act, R.S.M. 1902, c. 10.

The intestate died in 1893 and the administrator in 1896 distributed amongst the creditors whose claims were proved and allowed by him the proceeds of all the assets of the estate of which he had any knowledge, such proceeds being only sufficient to pay the creditors a dividend of about 3.41 per cent.

In 1909 the administrator realized a further sum for the estate upon an asset then recently discovered.

There had been no payment on account or written acknowledgment of indebtedness made by the administrator to any creditor since 1896.

*Held*, notwithstanding sub-s. (a) of s. 39 of the King's Bench Act, R.S.M. 1902, c. 40, that the claims of the creditors were barred by the Statute of Limitations, that it would be the duty of the administrator to plead the statute in any action by a creditor and that the administrator should forthwith distribute the remaining funds of the estate amongst the next of kin. Costs to all parties out of the estate.

*Hough*, K.C., for the creditors. *Young*, for the next of kin.

Mathers, J.]

[Jan. 27.]

CITY OF WINNIPEG v. WINNIPEG ELECTRIC RAILWAY CO.

*Injunction—Forfeiture—Waiver—Estoppel—Meaning of words "operation, conduct and management."*

1. An agreement by the defendant railway company to place and keep within the city limits all their engines, machinery, power houses, etc., is not a term or condition relating to the "operation, conduct and management" of the street railway lines in the city; and, although the city may sue for and recover damages in consequence of the establishment and use of a hydro-electric power plant outside the city for operating its cars in the city, the company does not thereby forfeit its privileges and rights as to street