

*Held*, that the defendant could not be held to be continuing the nuisance as she had no title to the highway, and no right, strictly speaking, to remove the trap-door constructed by another, and that, as the accident was not caused during or by her user of the trap-door, she was not liable. Judgment of MEREDITH, C.J., ante p. 23, reversed.

*Marsh*, Q.C., for appellant. *John MacGregor* and *R. G. Smyth*, for respondent.

From Meredith, C.J.]

[March 27.]

STRUTHERS v. TOWN OF SUDBURY.

*Assessment and taxes — Exemptions — "Public hospital" —*

*R.S.O. c. 224, s. 7 (5).*

A hospital carried on by and for the benefit of two medical practitioners, and used chiefly by patients paying fees, though to some extent by indigent patients, and in receipt of a government grant under The Charity Aid Act, R.S.O. c. 320, is a public hospital within the meaning of sub-s. 5 of s. 7 of the Assessment Act, R.S.O. c. 224, and exempt from taxation. Judgment of MEREDITH, C.J., 35 C.L.J. 72; 30 O.R. 116, affirmed.

*Nesbitt*, Q.C., and *J. H. Clary*, for appellants. *Aylesworth*, Q.C., for respondents.

From Armour, C.J.] BREWSTER v. HENDERSHOT.

[March 27.]

*Trust—Church—Possession—Religious Institutions Act—R.S.O. c. 307.*

Land was conveyed to certain persons in trust for a religious body called The United Brethren in Christ, and a congregation was organized and a church built. Subsequently a division took place in the religious body and it was held, in *Itter v. Howe* (1896) 23 A.R. 256, that the party to which the congregation in question adhered were seceders. This congregation continued to use the church and, some of the original trustees having died, appointed new trustees to act with the survivors, and the trustees refused to give up possession to the representatives of what had been declared to be the true body:—

*Held*, that the trustees must be treated as being trustees for the true body, who were entitled to enforce the trust and to have possession of the church, and that it was not necessary to organize another congregation and appoint new trustees for that congregation under The Religious Institutions Act. Judgment of ARMOUR, C.J., 35 C.L.J. 394, reversed.

*German*, Q.C., for appellants. *Cowper*, for respondents.

From Meredith, C.J.] PEACOCK v. COOPER.

[March 27.]

*Evidence—Negligence—Fire—Sparks from steamer.*

In an action to recover the value of buildings destroyed by fire started, as was alleged, by sparks escaping from the defective smokestack of a