

The Ontario Weekly Notes

VOL. VIII.

TORONTO, JULY 30, 1915.

No. 20

HIGH COURT DIVISION.

LENNOX, J., IN CHAMBERS.

JULY 20TH, 1915.

RE CLARKE.

Insurance—Life Insurance—Benevolent Society—Moneys Payable to Widow by Rules of Society—Preferred Beneficiary—Trust—Insurance Act, R.S.O. 1914 ch. 183, secs. 171 (3), 178 (2), 179 (1)—Effect of Will of Deceased—Costs.

Motion by the widow of John James Clarke, deceased, for an order for payment out of Court to her of a sum of about \$1,600 paid in by the Toronto Police Benefit Fund, a benefit society.

The deceased was, at the time of his death, a member of the Toronto police force, and the money was the "death benefit" payable at his decease. The money was claimed by the widow and also by the executor of the deceased.

W. D. Gwynne, for the widow.

S. J. Arnott, for the executor.

F. W. Harcourt, K.C., Official Guardian, representing the infant child of the deceased.

LENNOX, J., referred to art. 27 of the rules and regulations of the society, published in 1910, which makes the benefit payable to the widow, unless otherwise directed by the deceased. Previous rules also made the widow the primarily preferred beneficiary. The moneys were to be regarded as insurance moneys and subject to the provisions of the Ontario Insurance Act, R.S.O. 1914 ch. 183.

Reference was made to *Gillie v. Young* (1901), 1 O.L.R. 368. and *In re Cochrane* (1908), 16 O.L.R. 328.

It was contended that the deceased had "otherwise directed" by his will, whereby he bequeathed \$100 to his wife, \$100 to

another person, "and the balance of my estate of whatsoever kind and description to my brother;" the executor, "in trust for my daughter."

The learned Judge said that it was still the law that where beneficiaries are named in the contract there is a trust created in their favour: sub-sec. 2 of sec. 178 and sub-sec. 1 of sec. 179 of the Insurance Act. *Primâ facie*, the benefit money was not part of the deceased's estate; and, although the insured has power, under sub-sec. 3 of sec. 171, to designate, by will or other writing, a beneficiary, the writing must make it clear that he is dealing with the insurance money—he must identify the contract. That was not done in this case, and the decision must be in favour of the widow. The matter was not advanced by an oral statement made by the deceased to his executor.

Order made for payment to the widow; costs of all parties payable out of the fund. The money not to be paid out until after the 10th September next.

LENNOX, J., IN CHAMBERS.

JULY 20TH, 1915.

RE PAYNE AND UNION BANK OF CANADA.

Assignments and Preferences—Assignment for Benefit of Creditors—Secured Creditor Valuing Security—Right to Revalue—Assignments and Preferences Act, R.S.O. 1914 ch. 134, sec. 25 (5)—Costs.

W. H. Payne & Co. made an assignment for the benefit of creditors, under the Assignments and Preferences Act, R.S.O. 1914 ch. 134. The bank, being a secured creditor of the estate, valued its real estate security at \$7,000, and, after valuing its other securities as well, claimed to rank upon the estate for \$5,523.50. In the letter to the assignee accompanying the bank's proof of claim, the bank stated that it reserved the privilege, under the Act, of revaluing its securities at a later date if the estate was not wound up immediately. The assignee answered that he was content with the values put upon the securities, and that the bank would rank for \$5,523.50. The bank subsequently required a general disclaimer from the assignee of any intention to take over the securities, and this was given. About a month later, the solicitors for the bank wrote to the assignee a letter in which it was stated that there was only one question

unsettled between the assignee and the bank. That question did not relate to the revaluing of the securities. Before any attempt at revaluation, the bank sold a part of the real estate upon which it held security, and obtained a quit-claim deed of it from the assignee. On the 27th April, 1915, the bank filed a further claim for \$11,624.08, revaluing its securities. The right to do so was disputed, and the assignee and the bank stated a case for determination by a Judge in Chambers as to the right to revalue.

A. C. McMaster, for the assignee.
W. B. Raymond, for the bank.

LENNOX, J., said that the only provision in the Act for revaluation of securities was sub-sec. 5 of sec. 25, and that applied only to negotiable instruments. The bank had, in the circumstances, no right to revalue its securities, and the answer to the question asked should be "no."

The assignee to have his costs, on a solicitor and client basis, out of the estate. The bank to be at liberty to add its costs to its claim.

FALCONBRIDGE, C.J.K.B.

JULY 21st, 1915.

SMITH v. SMITH.

Parent and Child—Son Working for Father on Farm—Wages—Presumption—Rebuttal—Contract—Evidence.

Action by a son against his father for six years' wages for work done on the father's farm and for money lent or advanced for and at the request of the father.

The action was tried without a jury at Owen Sound.
H. G. Tucker, for the plaintiff.
C. S. Cameron, for the defendant.

FALCONBRIDGE, C.J.K.B., said that the governing principle was, that where a child, after attaining majority, continues to reside with a parent, the presumption is, that no payment is expected for services rendered by the child; but this presumption is not conclusive; it may be overcome by proof of a contract, express or implied: *Mooney v. Grout* (1903), 6 O.L.R. 521, and

cases cited there; and in this case the learned Chief Justice had no hesitation in finding the plaintiff's case to be well proven on the surrounding circumstances and particularly on the demeanour of the parties and their principal witnesses. The plaintiff proved a contract on his father's part to pay him wages. The suggestions and promises about giving the plaintiff the farm were ancillary to the main proposition, that the plaintiff was not to work for nothing.

Judgment for the plaintiff for \$1,033 and costs.

LUCZYCKI V. SPANISH RIVER PULP CO.—HOLMESTED, SENIOR REGISTRAR—JULY 19.

Alien Enemy — Dismissal of Action Brought by — Action Begun before War—Plaintiff Resident out of the Jurisdiction.]—Motion by the defendants to dismiss or stay the action. The motion was heard by the Senior Registrar, sitting for the Master in Chambers. The action was commenced before the war, and it was admitted that the plaintiff was an alien enemy resident out of the jurisdiction. The learned Registrar said that *Le Bret v. Papillon* (1804), 4 East 502, appeared to be directly in point. That action was launched before hostilities commenced, and it was held that after war was declared it could no longer be maintained. That case was referred to by the learned Chief Justice of the King's Bench in *Dumenko v. Swift Canadian Co. Limited* (1914), 32 O.L.R. 87, apparently with approval, and according to it the action must be dismissed. The case of *Viola v. Mackenzie Mann & Co.* (1915), Q.R. 24 K.B. 31, was the case of an alien resident in Canada, and had therefore no bearing on the present case. The order must go to dismiss the action with costs, but without prejudice to another action after the conclusion of peace between the British Empire and the Austro-Hungarian Empire. B. H. Ardagh, for the defendants. O. H. King, for the plaintiff.

MARTIN V. GRANTHAM—HOLMESTED, SENIOR REGISTRAR—JULY 19.

Summary Judgment—Rules 56, 57 — Affidavit Filed with Appearance—"Good Defence on the Merits"—Writ of Summons—Endorsement—Practice.]—Motion by the plaintiff for summary judgment under Rule 57, the plaintiff contending

that the affidavit of the defendant, filed with his appearance, did not comply with Rule 56. The learned Registrar (sitting for the Master in Chambers) said that the affidavit of the defendant did not in terms state that he had "a good defence on the merits," but it stated facts which, if true, shewed that he had in fact such a defence. This was a substantial compliance with Rule 56. Under that Rule, two courses are open to a plaintiff: he may cross-examine the defendant on his affidavit, and obtain, if he can, an admission of the plaintiff's claim on which he may move for judgment; or he may waive a cross-examination and move for judgment as upon a demurrer to the affidavit as not shewing a defence. This plaintiff adopted the latter course; but, in so doing, he virtually admitted all that the defendant had sworn to be true. The 2nd paragraph of his affidavit explicitly denied any indebtedness, and particularly of the amount set forth in the writ of summons. The 3rd paragraph stated*that he had paid the plaintiff in full for any services rendered. If these statements were true, they shewed that the defendant had a good defence on the merits; and they were admitted to be true for the purposes of this motion; but the plaintiff claimed to be entitled to judgment because the defendant did not add to these statements the further statement that he had "a good defence on the merits." The Rule was not intended to have any such effect. It might perhaps be said that no sum was "set forth in the writ of summons," but what was obviously meant was the endorsement on the writ of summons. Motion refused—costs to be in the cause to the defendant, and the order to be without prejudice to the further prosecution of the action by the plaintiff. R. Wherry, for the plaintiff. J. M. Forgie, for the defendant.

MERRIAM v. KINDERDENE REALTY CO.—LENNOX, J.—JULY 20.

Appeal—Report—Evidence.]—Appeal by the defendants from the report of an Official Referee. The learned Judge, after hearing argument and taking time to consider the evidence, said that there was no ground for setting aside the report or varying it or referring it back. On the contrary, it appeared to be well supported by the evidence. Appeal dismissed with costs. A. McLean Macdonell, K.C., for the appellants. W. J. McWhinney, K.C., and A. Cohen, for the plaintiffs, respondents.

GENTLES v. GEORGIAN BAY MILLING POWER CO.—CLUTE, J.
JULY 22.

Fraud and Misrepresentation—Sale of Land—Promissory Note—Counterclaim—Rescission—Damages.—The action was brought on a promissory note dated the 8th April, 1913, for \$900, payable 12 months after date to Charles A. Gentles, the plaintiff, and signed by the defendant company and the defendant Sparling. The defendants counterclaimed against Charles A. Gentles, Henry E. Hurlburt, and Albert J. Gentles. The defence and counterclaim were based on the allegation that the promissory note sued on was part of a land purchase transaction and was obtained by fraud. The action and counterclaim were tried without a jury at Parry Sound. The learned Judge set out the facts and his findings upon the evidence, in a written opinion. He said that Charles A. Gentles represented to the proposed purchasers of the land that he was interested in it to the extent of \$2,500; and, while he mentioned one Whalen as the owner, he gave them to understand that he (Gentles) had advanced that amount on the property, and was making the sale in order to get his money out. This representation was false, was believed by the proposed purchasers, and influenced them in making the purchase. The learned Judge also finds that there was collusion between the Gentles and Hurlburt and Whalen to put off these lots upon the defendants (the plaintiffs by counterclaim), and finds the issues as to fraud and misrepresentation in favour of the latter. The fact that Whalen was not a party was not sufficient to disentitle the plaintiffs by counterclaim to have the transaction set aside—Whalen did not sell or assume to sell, nor did the purchasers buy the land from him. Judgment declaring that the sale of the land was brought about by collusion, misrepresentation, and fraud, and should be set aside and cancelled, and that the note sued on was obtained by fraud, and dismissing the action with costs, and allowing the counterclaim for the recovery of \$1,800 and interest, and for delivery up of another note for \$900, forming part of the consideration for the purchase, and, in default of delivery up, for recovery of \$900 and interest in addition to the \$1,800 and interest. All necessary conveyances and surrenders to be prepared and tendered by the vendors. In case it should appear that the vendors cannot be reinstated in their original position, or if, for any reason, the transaction cannot be set aside, the plaintiffs by counterclaim should have judgment for damages assessed at

\$1,825. The defendants and plaintiffs by counterclaim to have their costs of action and counterclaim. D. L. McCarthy, K.C., for the plaintiff. W. E. Raney, K.C., and H. E. Stone, for the defendants and plaintiffs by counterclaim. W. L. Haight, for Hurlburt, defendant by counterclaim. J. P. Weeks, for Albert J. Gentles, defendant by counterclaim.

HOCKEN V. SHAILDE—CLUTE, J.—JULY 22.

Fraud and Misrepresentation—Sale of Land—Damages.—Action by five plaintiffs against the defendants Shaidle (a land agent) and Slater to recover damages for false and fraudulent representations whereby the plaintiffs in 1913 were induced to purchase lots in a block of land in the city of Winnipeg. The action was tried without a jury at Parry Sound. The learned Judge reviews the testimony and correspondence, in a written opinion, and finds, upon the evidence and the credibility of the plaintiffs' witnesses, and not accepting the testimony of the defendant Shaidle, that the plaintiffs were induced to part with their money by a false and fraudulent representation made by Shaidle; that Shaidle had no authority from Ivey, his principal in Winnipeg, to make the agreement which he did; that the written agreements sent down by Ivey for signature by the plaintiffs were not the agreements made by his agent Shaidle; that the agreement for the purchase never was in fact consummated by the formal agreement which was to have been signed; that the plaintiffs are entitled to recover from Shaidle, for the fraud and misrepresentation of which he was guilty, the various sums advanced by them, with interest; that the defendant Slater was not guilty of fraud, although his conduct was to a certain extent reprehensible, which should deprive him of costs. Judgment for the plaintiffs against the defendant Shaidle for the several amounts advanced by each plaintiff, with interest from the date of each advance, and with costs of the action, including the costs of a separate action brought by three of the plaintiffs, and consolidated with this action brought by the other two, up to the date of consolidation. Action dismissed without costs as against the defendant Slater. J. W. McCullough and James McCullough, for the plaintiff. G. Lynch-Staunton, K.C., and S. H. Slater, for the defendants.

WELTZ v. HOY—FALCONBRIDGE, C.J.K.B.—JULY 23.

Sale of Goods—Warranty—Breach—Chattel Mortgage — Conversion.]—Early in 1914, the plaintiff bought a stallion from the defendant at the price of \$1,200, of which he paid \$25 in cash and gave a chattel mortgage upon the stallion and other animals for the balance, \$1,175. The horse died on the 18th August, 1914, of poison. In December, 1914, the defendant seized the other animals under the chattel mortgage and sold them. The plaintiff's claim in this action, was for damages for breach of an alleged warranty (not in writing) that the horse was a sure foal-getter, and for wrongful conversion of the other animals. The action was tried without a jury at Owen Sound. The learned Chief Justice said that the plaintiff had failed to satisfy the onus cast upon him to establish his claim. Action dismissed with costs. Judgment for the defendant on his counterclaim for \$48, the balance due on the chattel mortgage, with costs. W. H. Wright, for the plaintiff. W. S. Middleboro, K.C., for the defendant.

INDEX

The names of cases which have been reported in the Ontario Law Reports are followed by a reference to the volume and page; the names of cases to be reported later in the Ontario Law Reports are marked *.

ABANDONMENT.

See Marriage—Mines and Minerals, 2.

ABATEMENT.

See Vendor and Purchaser, 6, 10—Will, 24.

ABSENTEE.

See Distribution of Estates.

ACCESS.

See Infants, 2—Water, 1, 2.

ACCOMPLICE.

See Evidence, 1.

ACCOUNT.

See Company, 8—Contract, 30—Mortgage, 9, 17—Partnership, 4.
5—Receiver, 2—Surrogate Courts—Trusts and Trustees, 1, 3,

ACCRETION.

See Water, 2.

ACKNOWLEDGMENT.

See Limitation of Actions.

ACQUIESCENCE.

See Contract, 18—Water, 2.

ADDITION OF PARTIES.

See Parties.

ADDRESS TO JURY.

See Trial, 2.

ADJOURNMENT.

See Appeal, 5—Mines and Minerals, 1.

ADMINISTRATORS.

See Alien Enemy, 1—Executors and Administrators—Insurance, 4.

ADVANCEMENT.

See Will, 20.

ADVANCES.

See Fraud and Misrepresentation, 2.

AFFIDAVITS.

See Judgment, 4—Libel, 2—Municipal Corporations, 8—Practice, 1.

AGENT.

See Contract, 6, 27—Fraud and Misrepresentation, 8, 10—Insurance, 9, 10—Negligence, 11—Principal and Agent—Sale of Goods, 6—Vendor and Purchaser, 3, 9.

AGREEMENT.

See Contract.

ALIEN ENEMY.

1. Action by Administrator for Benefit of Alien Enemies—Fatal Accidents Act—Summary Dismissal of Action Begun during War. *Dangler v. Hollinger Gold Mines Limited*, 8 O.W.N. 398, 34 O.L.R. 78.—SUTHERLAND, J.
2. Dismissal of Action Brought by—Action Begun before War—Plaintiff Resident out of the Jurisdiction. *Luczycki v. Spanish River Pulp Co.*, 8 O.W.N. 616.—HOLMESTED, Senior Registrar (Chrs.)
3. Right to Money in Hands of Trustee—Proposed Withdrawal from Province—Naturalisation in United States since Action Begun—Review of Former Order—Rule 523. *Myers v. Teller*, 8 O.W.N. 414.—SUTHERLAND, J.
4. Right to Naturalisation—Application under Naturalisation Act, R.S.C. 1906 ch. 77, sec. 19—Duty of Judge Hearing Application. *Re Cimonian*, 8 O.W.N. 448, 34 O.L.R. 129.—MEREDITH, C.J.C.P.

See Criminal Law, 2, 7.

ALIMONY.

See Husband and Wife, 1.

ALLOTMENT OF SHARES.

See Company.

AMALGAMATION.

See Company, 11.

AMENDMENT.

See Discovery, 3—Division Courts, 3—Fraud and Misrepresentation, 5—Parties, 2—Pleading, 3, 6—Sale of Goods, 4.

ANIMALS.

See Contract, 23—Insurance, 9, 10—Negligence, 10—Trespass.

ANNUITY.

See Will, 3, 13.

APOLOGY.

See Contempt of Court, 2.

APPEAL.

1. To Divisional Court of Appellate Division—Evidence—Findings of Fact of Trial Judge—Motion to Reopen Hearing of Appeal. *Davidovich v. Swartz*, 8 O.W.N. 222.—APP. DIV.
2. To Divisional Court of Appellate Division—Failure to Set Down in Time—Order Extending Time—Special Circumstances. *Re Hunt and Bell*, 8 O.W.N. 467.—FALCONBRIDGE, C.J.K.B. (Chrs.)
3. To Divisional Court of Appellate Division—Items of Account—Questions of Fact—Findings of County Court Judge—Evidence to Support. *Goodison v. Drennan*, 8 O.W.N. 253.—APP. DIV.
4. To Divisional Court of Appellate Division—Leave to Appeal from Order of Judge in Chambers—Rule 507—Libel—Newspaper—Security for Costs—Dismissal of Action—Libel and Slander Act, R.S.O. 1914 ch. 71, sec. 12—Costs of Motion for Leave. *Augustine Automatic Rotary Engine Co. Limited v. Saturday Night Limited*, 8 O.W.N. 462, 34 O.L.R. 166.—MEREDITH, C.J.C.P. (Chrs.)
5. To Divisional Court of Appellate Division—Motion for Leave to Appeal from Order of Judge in Chambers—Adjournment for Hearing before another Judge. *Hawes v. Hawes*, 8 O.W.N. 566.—MIDDLETON, J. (Chrs.)
6. To Divisional Court of Appellate Division—Motion for Leave to Appeal from Order of Judge in Chambers—Rule 507. *Duncan v. Cooper*, 8 O.W.N. 519.—LENOX, J. (Chrs.)

7. To Judge of High Court Division from Order or Decision of Master—Rule 504—Failure to Comply with Rules 502, 503—Powers of Master on Reference—Damages—Set-off. *Peppiatt v. Reeder*, 8 O.W.N. 332.—HODGINS, J.A. (Chrs.)
 8. To Judge of High Court Division from Master's Report—Evidence. *Merriam v. Kinderdene Realty Co.*, 8 O.W.N. 617.—LENNOX, J.
- See Arbitration and Award, 1—Assessment and Taxes, 1, 4—Attachment of Debts—Bills and Notes, 3—Boundaries—Carriers, 2—Company, 2, 5, 8, 19, 24—Contract, 2, 9, 29—Conversion of Chattels—Costs, 2, 4—Division Courts, 1—Evidence, 2—Fire—Fraudulent Conveyance, 2, 3—Gift—Highway, 2, 8—Insurance, 7—Judgment, 2—Judgment Debtor—Libel, 2—Master and Servant, 2—Mechanics' Liens, 3—Mortgage, 7, 17—Municipal Corporations, 4, 5—Municipal Elections—Negligence, 3, 9—Nuisance, 4—Parties, 2—Practice, 1—Principal and Agent, 7—Sale of Goods, 1—Solicitor, 1, 3—Street Railway—Surrogate Courts—Water, 1.

APPEARANCE.

See Judgment, 4—Practice, 1.

APPELLATE DIVISION.

See Appeal—Evidence, 2—Municipal Elections.

APPLICATION OF PAYMENTS.

See Bills and Notes, 6.

APPOINTMENT.

See Marriage Settlement.

APPORTIONMENT.

See Insurance, 1, 2.

ARBITRATION AND AWARD.

1. Compensation for Electric Works Expropriated by City Corporation—Claims Excluded by Statute from Consideration of Arbitrators—Appeal from Award—Statement as to Claims Considered by Arbitrators—Right to Obtain for Information of Court. *Re City of Peterborough and Peterborough Electric Light Co.*, 8 O.W.N. 564.—BRITTON, J.
2. Ground Rent of Premises Fixed by Award—Action for Value of Use and Occupation—Fair Rental Value of Premises—Evidence. *MacDonell v. Davies*, 8 O.W.N. 48, 315.—LENNOX, J.—APP. DIV.

3. Motion to Set aside Award—Claim under Municipal Drainage Act, R.S.O. 1914 ch. 198, sec. 80—Notice—Damages—Mistake in Law of Arbitrator—Written Reasons of Arbitrator—Mistake Appearing on Face of Award—Jurisdiction to Set aside Award. *Parsons v. Township of Eastnor*, 8 O.W.N. 381, 444, 34 O.L.R. 110.—HODGINS, J.A.—APP. DIV.

See Ditches and Watercourses Act—Municipal Corporations, 4—Railway, 1, 2.

ASSAULT.

Civil Action for—Previous Conviction by Justice of the Peace Pleaded in Bar—Criminal Code, sec. 734—Jurisdiction of Justices—Information under sec. 295—Conviction for Common Assault—Secs. 732, 733, 734, 785, 791, 792 of Code. *Twiss v. Curry*, 8 O.W.N. 468.—ELLIOTT, Co.C.J. (Chrs.)

ASSESSMENT AND TAXES.

1. Business Assessment—Valuation of Land and Buildings of Water Power Company—Principle of Valuation—Evidence—Onus—Appeal from Decision of Ontario Railway and Municipal Board—Questions of Law—Assessment Act, R.S.O. 1914 ch. 195, sec. 80 (6), (7)—Ontario Railway and Municipal Board Act, R.S.O. 1914 ch. 186, sec. 48 (3)—Opinion of Court—Form of Judgment—Res Adjudicata. *Re Ontario and Minnesota Power Co. and Town of Fort Frances*, 8 O.W.N. 216, 303.—APP. DIV.
2. Liability for School Taxes. *Township of Stamford v. Ontario Power Co. of Niagara Falls*, 8 O.W.N. 241.—APP. DIV.
3. Railway Bridge Spanning Navigable River—Ownership of Soil of Bed of River in Crown—Statutory Authority for Erection of Bridge—Grant of Soil—Liability to Assessment—Assessment Act, R.S.O. 1914 ch. 195, sec. 47, sub-sec. 3—"Structure on Railway Lands"—Exemption from Assessment. *Re Ottawa and New York R.W. Co. and Township of Cornwall*, 8 O.W.N. 369, 34 O.L.R. 55.—APP. DIV.
4. Special Assessment under Local Improvement By-law—Decision of Court of Revision—Appeal from, to County Court Judge—Time for—Assessment Act, R.S.O. 1914 ch. 195, secs. 57, 72—Local Improvement Act, R.S.O. 1914 ch. 193, sec. 39 (2)—Ascertaining Date of Decision—Day on which Parties Notified Thereof—Objection to Right of Appeal—Waiver. *Re Kemp and City of Toronto*, 8 O.W.N. 32.—MIDDLETON, J. (Chrs.)

5. Validity of Assessments—Lien of Municipality—Enforcement by Sale—Directions—Costs of Liquidator of Company. *Town of Sturgeon Falls v. Imperial Land Co.* (No. 2), 8 O.W.N. 251.—KELLY, J.

See Constitutional Law, 2—Contract, 14—Covenant—Landlord and Tenant, 4—Limitation of Actions—Title to Land, 1.

ASSIGNMENT OF LEASE.

See Landlord and Tenant, 2.

ASSIGNMENTS AND PREFERENCES.

1. Assignment for Benefit of Creditors—Right of Secured Creditor to Rank upon Estate in Hands of Assignee—Notice of Contestation—Forfeiture—Assignments and Preferences Act, R.S.O. 1914 ch. 134, secs. 25, 26, 27. *Cole v. Cole*, 8 O.W.N. 450.—LENNOX, J.
2. Assignment for Benefit of Creditors—Secured Creditor Valuing Security—Right to Revalue—Assignments and Preferences Act, R.S.O. 1914 ch. 134, sec. 25 (5)—Costs. *Re Payne and Union Bank of Canada*, 8 O.W.N. 614.—LENNOX, J. (Chrs.)
3. Assignment for Benefit of Creditors under Assignments and Preferences Act—Summary Application by Assignee for Determination of Conflicting Claims to Rank on Estate—Jurisdiction—Trustee Act, sec. 66—Rule 600—Contest between Creditor and Surety. *Re Fearnley's Assignment*, 8 O.W.N. 223, 33 O.L.R. 492.—MEREDITH, C.J.C.P.
4. Bill of Sale—Insolvent Bargainor—Consideration—Payment of Composition to Creditors—Invalidity against Non-assenting Creditors—Assignments and Preferences Act, R.S.O. 1914, ch. 134, sec. 5 (1). *Herzig v. Hall*, 8 O.W.N. 242.—SUTHERLAND, J.
5. Conveyance of Land in Trust for Erection of Buildings and Payment of Creditors—Expenditure by Trustee in Excess of Sums Received from Property—Mortgage by Trustee to Secure Personal Creditor—Appointment of New Trustee—Action against, for Foreclosure—Trust not within Assignments and Preferences Act—Judgment—Immediate Foreclosure—Costs. *Foster v. Trusts and Guarantee Co.*, 8 O.W.N. 531.—MIDDLETON, J.

See Company, 1, 18, 21—Fraudulent Conveyance.

ATTACHMENT OF DEBTS.

Garnishee Disputing Liability—Order Directing Trial of Issue—
Appeal. *Bank of Montreal v. McAlpine*, 8 O.W.N. 402.—
SUTHERLAND, J. (Chrs.)

See Division Courts, 2.

AWARD.

See Arbitration and Award.

BAILMENT.

Destruction of Property by Bailee—Damages. *Green Fuel
Economiser Co. v. City of Toronto*, 8 O.W.N. 541.—MIDDLE-
TON, J.

See Negligence, 5.

BANKRUPTCY AND INSOLVENCY.

See Assignments and Preferences—Company—Fraudulent Con-
veyance.

BANKS AND BANKING.

Deposit by Customer—Entry in Passbook—Mistake—Estoppel—
Evidence—Finding of Fact of Trial Judge. *Collins v. Do-
minion Bank*, 8 O.W.N. 432.—CLUTE, J.

See Bills and Notes, 1, 3—Criminal Law, 5—Mortgage, 17.

BED OF NAVIGABLE WATERS ACT.

See Water, 2.

BENEFIT CERTIFICATE.

See Insurance, 2, 3.

BENEVOLENT SOCIETY.

See Insurance, 3.

BEQUEST.

See Will.

BILL OF LADING.

See Carriers, 1—Principal and Agent, 4.

BILLS AND NOTES.

1. Bill of Exchange—Accommodation—Acceptance on Condition—
Admission of Oral Evidence to Prove Condition—Bank—
Holder in Due Course—Bills of Exchange Act—Evidence—
Liability of Acceptors Conditional on Something being Due

- to Drawers at Maturity—Extent of Liability—Findings of Fact of Trial Judge. *Standard Bank of Canada v. Wettlaufer*, 8 O.W.N. 187, 33 O.L.R. 441.—CLUTE, J.
2. Promissory Note—Accommodation Makers—Duress—Agreement to Stifle Prosecution—Failure to Shew—Findings of Fact of Trial Judge. *Herrington v. Carey*, 8 O.W.N. 451.—MIDDLETON, J.
 3. Promissory Note—Accommodation Note—Endorsement to Bank as Collateral Security for Debt of Payee—Debt Paid before Action Begun—Claim of Bank to Hold Note for Subsequent Debt—Evidence—Findings of Fact of Trial Judge—Appeal. *Bank of Ottawa v. Hall*, 8 O.W.N. 15.—APP. DIV.
 4. Promissory Note—Action against Maker—Statute of Limitations—Computation of Days in Statutory Period—Rate of Interest post Diem—Interest from Commencement of Action to Judgment in Addition to Six Years' Arrears. *Canadian Heating and Ventilating Co. Limited v. Cutts*, 8 O.W.N. 565.—FALCONBRIDGE, C.J.K.B.
 5. Promissory Note—Addition of Words "Account of Lumber to be Shipped"—Executory Consideration—Validity of Note as Negotiable Instrument. *Merchants Bank of Canada v. Bury*, 8 O.W.N. 239, 33 O.L.R. 204.—APP. DIV.
 6. Promissory Note—Application of Payments—Renewal—Waiver—Guaranty—Misrepresentation—Findings of Fact of Trial Judge. *Bank of Toronto v. Hall*, 8 O.W.N. 465.—BRITTON, J.
 7. Promissory Note—Evidence—Interest. *McKay v. Good and Rochester*, 8 O.W.N. 296.—LENNOX, J.
 8. Promissory Note—Negotiation by Payee in Fraud of Maker—Facts Shewing Notice to Endorsee—Holder in Due Course—Onus of Proof—Company—Knowledge of Person Controlling. *J. C. Pennoyer Co. v. Williams Machinery Co. Limited*, 8 O.W.N. 279.—CLUTE, J.
- See Contract, 25—Fraud and Misrepresentation, 7, 9—Sale of Goods, 2.

BILLS OF EXCHANGE.

See Bills and Notes.

BILLS OF SALE.

See Assignments and Preferences, 4—Chattel Mortgage.

BOARD OF CONTROL.

See Municipal Corporations, 6.

BOARD OF RAILWAY COMMISSIONERS.

See Municipal Corporations, 11—Railway, 6.

BONDHOLDERS.

See Company, 14—Receiver, 2.

BONUS.

See Master and Servant, 1.

BOUNDARIES.

Ascertainment of Line between Adjoining Lots—Evidence—
Finding of Trial Judge—Appeal—Easement—Light—Lim-
itations Act, R.S.O. 1914 ch. 75, sec. 37—Overhanging Cor-
niche. *Soloway v. Gow*, 8 O.W.N. 406.—App. Div.

See Highway, 3—Vendor and Purchaser, 9.

BREACH OF PROMISE.

See Marriage.

BRIDGE.

See Assessment and Taxes, 3.

BRITISH NORTH AMERICA ACT.

See Constitutional Law.

BROKER.

See Principal and Agent.

BUILDING CONTRACT.

See Contract, 12—Mechanics' Liens.

BUILDING RESTRICTION.

See Covenant—Vendor and Purchaser, 3.

BUILDING TRADES PROTECTION ACT.

See Master and Servant, 3.

BUILDINGS.

See Highway, 3—Landlord and Tenant, 3—Municipal Corpora-
tions, 10—Negligence, 11—Vendor and Purchaser, 7.

BUSINESS ASSESSMENT.

See Assessment and Taxes, 1.

BY-LAWS.

See Assessment and Taxes, 4—Company, 2—Easement, 1—Highway, 1, 2, 8—Municipal Corporations—Negligence, 10.

CALLS.

See Company, 2, 3, 9.

CANADA TEMPERANCE ACT.

Voting on Petition for Bringing Part II. into Force in County—Returning Officer—Injunction against Making Return—Jurisdiction of Supreme Court of Ontario to Declare Proceedings Void—Tribunal Provided by Act, R.S.C. 1906 ch. 152, sec. 69—Scrutiny by County Court Judge—Powers of—Sec. 105—Action—Constitution of—Parties. *Murdock v. Kilgour*, 8 O.W.N. 144, 33 O.L.R. 412.—APP. DIV.

CARRIERS.

1. Bill of Lading—Condition—Delivery of Goods Shipped on Payment of Draft—Delivery without Payment—Action by Vendors against Carriers—Damages—Third Party—Costs. *Reo Sales Co. v. Grand Trunk Railway System*, 8 O.W.N. 482.—SUTHERLAND, J.
2. Shipment of Grain—Loss by Fire in Elevator—Insurance—Marine Policy—Negligence of Carriers—Evidence—Damages—Findings of Trial Judge—Appeal—New Trial. *Richardson v. Canadian Pacific R.W. Co.*, 8 O.W.N. 221.—APP. DIV.

See Principal and Agent, 4—Sale of Goods, 4, 6.

CASH SURRENDER VALUE.

See Insurance, 7.

CAVEAT EMPTOR.

See Sale of Goods, 1.

CEMETERY COMPANY.

See Company, 4.

CHARGE ON LAND.

See Land Titles Act—Mortgage, 8—Will, 13.

CHARITABLE INSTITUTION.

See Negligence, 8.

CHATTEL MORTGAGE.

1. Injunction—Terms. *Wallace v. Clapp*, 8 O.W.N. 438.—MIDDLETON, J.

2. Validity against Execution Creditor of Mortgagor—Partnership—Interpleader Issue. *Weddell v. Douglas*, 8 O.W.N. 455.—BRITTON, J.

See Assignments and Preferences, 4—Conversion of Chattels—Sale of Goods, 7.

CHILDREN'S AID SOCIETY.

See Infants, 1.

CHILDREN'S PROTECTION ACT.

See Infants, 1.

CHURCH.

Conveyance of Land to Trustees for—Appointment of New Trustees—Power of Trustees to Mortgage Land—Religious Institutions Act, R.S.O. 1914 ch. 186, secs. 7, 8, 16 (1), (2), 18—Trustee Act. **Re Lutheran Church of Hamilton*, 8 O.W.N. 556.—MIDDLETON, J.

See Highway, 9—Trusts and Trustees, 2.

CLASS ACTION.

See Company, 4—Mortgage, 7—Parties, 1.

CLOSING OF STREET.

See Highway, 1.

CODICIL.

See Will, 1, 15.

COLLATERAL CONTRACT.

See Contract, 2—Landlord and Tenant, 3.

COLLATERAL SECURITY.

See Bills and Notes, 3.

COLLISION.

See Negligence, 2, 3, 7.

COLLUSION.

See Company, 21—Solicitor, 2.

COMMISSION.

See Company, 8—Contract, 6, 27—Fraud and Misrepresentation, 10—Principal and Agent, 1, 2, 3, 5.

COMMITTEE.

See Lunatic, 2.

COMMON EMPLOYMENT.

See Master and Servant, 5.

COMPANY.

1. Assignment for Benefit of Creditors—Transfer of Assets of Company to New Company—Resolution of Creditors—Dissentient Creditor—Injunction—Delay in Moving. *Kreamer v. Clarkson*, 8 O.W.N. 545.—SUTHERLAND, J.
2. Calls—Authority of Directors—By-law—Conditional Subscription—Waiver—Findings of Fact of Trial Judge—Appeal. *Canadian Ohio Motor Car Co. v. Cochrane*, 8 O.W.N. 242.—APP. DIV.
3. Calls—Liability for, of Original Subscriber for Shares and Petitioner for Incorporation—Fraud of Promoter—Subscription Procured by. *Buff Pressed Brick Co. v. Ford*, 8 O.W.N. 63, 33 O.L.R. 264.—APP. DIV.
4. Cemetery Company—Power to Sell Lands not Required for Cemetery Purposes—Act respecting Cemetery Companies, R.S.O. 1887 ch. 175—Effect of Registration under secs. 2 (b), 3—Status of Plaintiffs in Action to Set aside Conveyance—Shareholder—Class Action—Estoppel—Reincorporation of Company, under Companies Act, 2 Geo. V. ch. 31—Additional Powers—Effect of sec. 13—Order in Council—Powers of Provincial Secretary—Trusts. *Smith v. Humbervale Cemetery Co.*, 8 O.W.N. 202, 33 O.L.R. 452.—APP. DIV.
5. Contracting Company—Contract Taken by Majority of Directors as Individuals—Disclosure—Ratification by Shareholders—Duties and Liabilities of Directors—Trust—Rights of Minority Shareholders in Absence of Fraud—Evidence—Conflict—Finding of Trial Judge—Appeal—Ontario Companies Act, R.S.O. 1914 ch. 178, secs. 23, 93—7 Edw. VII. ch. 34, secs. 80, 81, 87, 89—Ontario Interpretation Act, R.S.O. 1914 ch. 1, sec. 27—Closing of Business of Company—Use of Organisation of Company in Carrying out Contract—Right of Action. *Cook v. Deeks*, 8 O.W.N. 7, 33 O.L.R. 209.—APP. DIV.
6. Directors—Issue of New Shares—Invalidity—Previous Agreement to Allot Shares in Consideration of Financial Aid—Agreement with Director not Binding on Company—Control

- of Company—Election of Directors. *Swayze v. Grobb*, 8 O.W.N. 316.—MIDDLETON, J.
7. Incorporated Racing Association—Dominion Charter—Construction—Powers—“Operations throughout the Dominion and elsewhere”—Places for Holding Race-meetings. *O'Neill v. London Jockey Club*, 8 O.W.N. 602.—MIDDLETON, J.
 8. Managing Director—Breaches of Trust—Account—Compensation—Interest—Compound Interest—Credits—Claims for Commission—Expenses and Disbursements—Master's Report—Appeal. *Saskatchewan Land and Homestead Co. v. Moore*, 8 O.W.N. 525.—APP. DIV.
 9. Shareholders—Act respecting Prospectuses Issued by Companies, 6 Edw. VII. ch. 27, sec. 3 (3)—Effect upon Subscription for Shares of Non-delivery of Prospectus—Shareholders Acting as such—Ratification—Voidable Subscription—Election to Affirm—Delay in Repudiating—Action for Calls—Implied Repeal of Statute by Companies Act, 1907. *Morrisburgh and Ottawa Electric R.W. Co. v. O'Connor*, 8 O.W.N. 485, 34 O.L.R. 161.—APP. DIV.
 10. Shares—Transfer by Endorsement on Certificate—Failure to Record in Books of Company—Fraud of Transferor—Rights of Transferee against True Owner—Laches—Mandamus. *Leadlay v. Union Stockyards Co. Limited*, 8 O.W.N. 516.—BRITTON, J.
 11. Title to Shares—Amalgamation—Contract—Novation—Failure of Consideration—Evidence. *Marshall v. Dominion Manufacturers Limited*, 8 O.W.N. 526.—APP. DIV.
 12. Title to Shares—Contract—Trust—Parol Evidence—Collateral Transaction—Costs. *McConnell v. Murphy, Patton v. Murphy*, 8 O.W.N. 409.—APP. DIV.
 13. Unsatisfied Judgment against Company—Action against Directors by Assignee of Claims for Wages of Servants—Companies Act, R.S.O. 1914 ch. 178, sec. 98—Agreement between Assignee and Company—Novation—Costs. *Coveney v. Glendinning*, 8 O.W.N. 320, 33 O.L.R. 571.—MIDDLETON, J.
 14. Winding-up—Claim of Mortgagee for Bondholders—Application for Leave to Proceed to Enforce, notwithstanding Winding-up Order—Winding-up Act, R.S.C. 1906 ch. 144, sec. 22—Discretion—Delay to Enable Liquidator to Sell Assets—Costs. *Re Martin International Trap Rock Co. Limited*, 8 O.W.N. 599.—LENNOX, J. (Chrs.)

15. Winding-up—Contributories—Evidence—Estoppel. *Re Nagrella Manufacturing Co. Limited*, 8 O.W.N. 452.—BRITTON, J.
16. Winding-up—Contributory—Agreement to Take Shares—Invalidity—Absence of Allotment—Issue of Certificates for Shares—Liability Confined to Shares for which Certificates Issued. *Re Dominion Milling Co. (Dennis's Case)*, 8 O.W.N. 496.—CLUTE, J.
17. Winding-up—Contributory—Shareholder—Prospectus—Application for Shares—Allotment—Notice. *Re Port Arthur Waggon Co. Limited (Price's Case)*, 8 O.W.N. 480.—SUTHERLAND, J.
18. Winding-up—Landlord's Preferential Lien for Rent—Landlord and Tenant Act, R.S.O. 1914 ch. 155, sec. 38—Existence of Statutory Lien Irrespective of Distress or Possession—Voluntary Assignment for General Benefit of Creditors before Winding-up Order—Assets Taken by Liquidator Subject to Preferential Lien—Winding-up Act, R.S.C. 1906 ch. 144, secs. 5, 23, 133. *Re Fashion Shop Co.*, 8 O.W.N. 71, 33 O.L.R. 253.—BOYD, C.
19. Winding-up—Leave to Bring Action in Name of Liquidators—Indemnity—Costs—Proposed Sale of Assets—Adjournment of Consideration—Order of Master—Appeal. *Re Bailey Cobalt Mines Limited*, 8 O.W.N. 433.—MIDDLETON, J.
20. Winding-up—Petition by Shareholders for Order under Dominion Winding-up Act, R.S.C. 1906 ch. 144—Report of Inspector Appointed under Ontario Companies Act, R.S.O. 1914 ch. 178, sec. 126—Meeting of Shareholders—Vote on Proposal to Wind up—Sec. 11 (d), (e), of Dominion Act—Impairment of Capital—"Just and Equitable"—Evidence—Discretion. *Re Hamilton Ideal Manufacturing Co. Limited*, 8 O.W.N. 391, 34 O.L.R. 66.—KELLY, J. (Chrs.)
21. Winding-up—Petition by Unsecured Creditors under Winding-up Act, R.S.C. 1906 ch. 144—Previous Assignment by Company for Benefit of Creditors—Sale of Assets Ordered by County Court Judge—Charge of Collusion—Discretion. *Re International Trap Rock Co. Limited*, 8 O.W.N. 461.—CLUTE, J. (Chrs.)
22. Winding-up—Petition for, by Creditor—Winding-up Act, R.S.C. 1906 ch. 144—No Opposition by other Creditors—Refusal of Company's Request for Delay—Discretion. *Re Heyes Brothers Limited*, 8 O.W.N. 390.—SUTHERLAND, J. (Chrs.)

23. Winding-up—Petition for, Order under Dominion Winding-up Act after Liquidation Begun but not Completed under Ontario Companies Act—Interest of Unsecured Creditors—Investigation of Stock Subscriptions—Costs. *Re Hough Lithographing Co. Limited*, 8 O.W.N. 377.—SUTHERLAND, J. (Chrs.)
24. Winding-up—Sale of Machinery to Company before Winding-up—Property not to Pass till Payment—Claim of Unpaid Creditors to Possession and Ownership of Machinery—Order of Judge on Appeal from Ruling of Master—Refusal of Leave for Further Appeal. *Re Motor Street Cleaning Co.*, 8 O.W.N. 233.—MIDDLETON, J. (Chrs.)
- See Assessment and Taxes, 5—Bills and Notes, 8—Constitutional Law, 2—Contract, 8, 24, 25—Criminal Law, 5—Division Courts, 2—Fraud and Misrepresentation, 3—Landlord and Tenant, 5—Parties, 1—Statute of Frauds.

COMPENSATION.

- See Arbitration and Award, 1—Company, 8—Municipal Corporations, 4—Railway, 1, 2—Surrogate Courts.

COMPOSITION.

- See Assignments and Preferences, 4.

CONDITION.

- See Sale of Goods, 2, 5.

CONDITIONAL SALE.

- See Sale of Goods, 3.

CONSENT JUDGMENT.

- See Contempt of Court, 1—Mortgage, 7.

CONSPIRACY.

- See Criminal Law, 2—Evidence, 1.

CONSTITUTIONAL LAW.

1. Marriage Act, R.S.O. 1914 ch. 148, sec. 36—Ultra Vires—British North America Act, 1867, secs. 91 (26), 92 (12)—Jurisdiction of Supreme Court of Ontario to Declare Marriage Void—Declaratory Judgment—Judicature Act, sec. 16 (b)—Prior Known Decision—Reference to Divisional Court—Judicature Act, sec. 32. *Peppiatt v. Peppiatt*, 8 O.W.N. 447, 34 O.L.R. 121.—MEREDITH, C.J.C.P.

2. Ontario Corporations Tax Act, R.S.O. 1914 ch. 27, sec. 4 (3)—
Intra Vires—"Direct Taxation within the Province"—
British North America Act, sec. 92 (2)—Taxation of Insur-
ance Companies—Premiums Received by Companies. *Treas-
urer of Ontario v. Canada Life Assurance Co.*, 8 O.W.N. 165,
33 O.L.R. 433.—MIDDLETON, J.
3. Roman Catholic Separate Schools—Use of French Language—
Regulation 17 of Department of Education—Validation by
5 Geo. V. ch. 45 (O.)—Provincial Legislation Authorising
School Regulations—Intra Vires—British North America
Act, secs. 93, 133—Treaty Obligations—Natural Rights—
Provision for Use of French Language in Parliament and
Courts of Justice. **Mackell v. Ottawa Separate School
Trustees*, 8 O.W.N. 596.—APP. DIV.

CONTEMPT OF COURT.

1. Disobedience of Injunction—Consent Judgment—Locus Pœni-
tentiae—Undertaking to Discontinue Manufacture of Goods
in Form Similar to those of Plaintiffs—Costs. *Real Cake
Cone Co. v. Robinson*, 8 O.W.N. 568.—MIDDLETON, J.
(Chrs.)
2. Disobedience of Injunction—Motion to Commit—Enforce-
ment of Obedience—Stay of Order for Commitment to Permit
of Obedience being Rendered—Terms—Undertaking—Apol-
ogy—Costs. *Watson v. Jackson*, 8 O.W.N. 410.—MIDDLE-
TON, J.

CONTRACT.

1. Agreement between Father and Son that Farm shall be Son's
at Death of Father—Failure to Establish—Evidence—
Corroboration—Statute of Frauds—Possession—Ejection—
Mesne Profits. *Wingrove v. Wingrove*, 8 O.W.N. 21, 471.—
MIDDLETON, J.—APP. DIV.
2. Agreement for Purchase of Vehicle—Cancellation—Action for
Return of Deposit—Collateral Agreement—Evidence—Find-
ings of Fact of Trial Judge—Appeal. *Small v. Dominion
Automobile Co. Limited*, 8 O.W.N. 256.—APP. DIV.
3. Agreement to Build Vessel—Dispute as to Terms—Finding of
Jury—Promised Speed not Attained—Breach of Contract—
Return of Money Paid—Damages. *Donovan v. Chatham
Bridge Co.*, 8 O.W.N. 235.—BRITTON, J.
4. Agreements for Supply of Roofing Material and Construction
and Placing of Roof—Defective Material—Defective Work-

- manship—Breach of Contract—Guaranty—Damages—Costs. *Canadian Malleable Iron Co. v. Asbestos Manufacturing Co. Limited and Creeper & Griffin Limited*, 8 O.W.N. 312.—**APP. DIV.**
5. Claim for Payment for Work Done—*Extras*—Counterclaim—Delay. *Curley v. Village of New Toronto*, 8 O.W.N. 274.—**CLUTE, J.**
6. Condition not Expressed in Written Agreement—Oral Evidence of Condition—Inoperative Agreement—Principal and Agent—Sales of Land Made by Agent not Assented to by Principal—Commission. *Rimand v. Lines*, 8 O.W.N. 464.—**CLUTE, J.**
7. Construction—Sale of Goods—“At Factory Cost”—“Overhead Charges”—Royalties—List Price in Excess of Actual Cost—Refund of Excess—Evidence—Onus. *Gramm Motor Truck Co. of Canada Limited v. Gramm Motor Truck Co. of Lima Ohio*, 8 O.W.N. 121.—**APP. DIV.**
8. Construction—Sale of Stock and Assets of Commercial Company—Ascertainment of Amount Payable—Correspondence between Solicitors—Modification—New Agreement—Authority of Solicitor—Estoppel. *Toronto General Trusts Corporation v. Gordon Mackay & Co. Limited*, 8 O.W.N. 409, 469, 34 O.L.R. 101.—**APP. DIV.**
9. Construction—Scope—Partnership—Contemplated Profits from Oil Leases and Agreements—“Extensions”—Profits from Natural Gas Leases and Agreements—“Oil and its Products”—Findings of Fact of Trial Judge—Appeal. *Hay v. Coste*, 8 O.W.N. 196.—**APP. DIV.**
10. Construction—Scope of Sub-contract for Ventilating and Heating of Building—Temporary Heating during Progress of Work—Breach of Contract—Damages. *Braden v. Varlow Foundries Limited*, 8 O.W.N. 575.—**SUTHERLAND, J.**
11. Construction—Supply of Electric Power—Rate of Payment. *Toronto Electric Light Co. Limited v. Interurban Electric Co. Limited*, 8 O.W.N. 272.—**LENNOX, J.**
12. Erection of Building—Action for Balance of Contract—price, Extras, and Damages—Counterclaim—Disputed Items—Findings of Fact of Trial Judge. *McLeod v. Sault Ste. Marie Public School Board*, 8 O.W.N. 569.—**BRITTON, J.**
13. Evidence—Failure to Establish Agreement. *Browne v. Timmins*, 8 O.W.N. 482.—**SUTHERLAND, J.**

14. Interest in Land—Undertaking to Convey—Written Memorandum—Proof of Signature—Handwriting Experts—Statute of Frauds—Trustee—Fraudulent Breach of Trust—Tax Sale. *O'Brien v. Moore*, 8 O.W.N. 378.—FALCONBRIDGE, C.J.K.B.
15. Judicial Sale of Land by Tender to Satisfy Liens—Threat of Proceedings to Set aside Sale—Promise of Purchaser to Pay Profit on Resale to Lien-holders—Enforcement—Consideration—Forbearance—Statute of Frauds—Interest in Land—Action for Money—Reference—Ascertainment of Profit. *Leslie v. Stevenson*, 8 O.W.N. 421, 34 O.L.R. 93.—BOYD, C.
16. Liability for Hospital Expenses—Wife of Patient—Estate of Patient—Charge on Estate. *Homewood Sanitarium v. Parker and Toronto General Trusts Corporation*, 8 O.W.N. 402.—FALCONBRIDGE, C.J.K.B.
17. Municipal Corporation—Electric Light Company—Erection of Poles in Highways—Removal at Instance of Municipal Corporation—Expense of, by whom Borne—Construction of Agreements—Control of Highways. *Interurban Electric Co. Limited v. City of Toronto*, 8 O.W.N. 288.—LENNOX, J.
18. Municipal Corporation—Electric Light Company—Overhead System—Erection of Poles in Highways—45 Vict. ch. 19, sec. 2—"Upon"—Condition Precedent—Agreements between City Corporation and Company—Construction—Absence of Agreement or Consent for Erection of Poles for Transmission of Lighting Current to Private Consumers—Acquiescence—Knowledge—Estoppel—Lost Grant—Limited Special Permission—"Franchise, Right, or Privilege"—Corporate Act—Discretion. *Toronto Electric Light Co. v. City of Toronto*, 8 O.W.N. 87, 33 O.L.R. 267.—APP. DIV.
19. Purchase of Mining Claims—Misrepresentations—Undertaking by one Vendor to Return Portion of Purchase-money in Event of Properties not Being as Represented—Position of Co-vendor—Responsibility for Misrepresentations though Innocent—Executory Contract—Rescission. *Lake View Consols Limited v. Flynn*, 8 O.W.N. 333.—APP. DIV.
20. Purchase of Plant and Business—Right of Purchasers to Benefit of Contract for Supply of Material—Refusal of Contractors to Supply—Evidence—Novation—Equitable Assignment—Statute of Frauds—Breach of Contract—Damages—Measure of—Seizure of Chattels and Book Accounts—Loss of Profits. *Milo Candy Co. v. Browns Limited*, 8 O.W.N. 99.—APP. DIV.

21. Rescission—Fraud—Return of Money Paid. *Acres v. Consolidated Investments Limited*, 8 O.W.N. 193.—LENNOX, J.
22. Rescission—Fraud—Return of Money Paid. *Wyatt v. Consolidated Investments Limited*, 8 O.W.N. 194.—LENNOX, J.
23. Sale of Animals for Breeding Purposes—Undertaking—Construction—Breach. *Baird v. Clark*, 8 O.W.N. 113.—APP. DIV.
24. Sale of Brickyard—Default in Payment—Repossession by Vendor—Conversion of Bricks—Right to Possession of Plant Replacing Plant Sold—Construction of Contract—Purchaser-company—Winding-up Order—Rights of Liquidator—Set-off—Mortgage Debentures—Costs. *Wade v. Crane*, 8 O.W.N. 478.—MIDDLETON, J.
25. Sale of Company-shares and Money-claim—Terms of Payment—Promissory Note—Written Agreement—Variation by Oral Agreement—Findings of Fact of Trial Judge. *Crocker v. Galusha*, 8 O.W.N. 610.—SUTHERLAND, J.
26. Sale of Land and Business—Mistake—Rescission—Inability of Purchaser to Make Restitution—Executed or Executory Contract—Absence of Fraud—Failure of Consideration. *Milk Farm Products and Supply Co. Limited v. Buist*, 8 O.W.N. 491.—MIDDLETON, J.
27. Sale of Lands—Principal and Agent—Share of Profits—Commission—Costs. *Livingston v. Cummings*, 8 O.W.N. 545.—BRITTON, J.
28. Trade Agreement—Illegality—Sale of Goods—Conditions Unreasonably Enhancing Prices Charged to Public—Element of Crime—Impairing Freedom of Contract—Refusal to Enforce Agreement. *Stearns v. Avery*, 8 O.W.N. 70, 33 O.L.R. 251.—BOYD, C.
29. Work and Labour—Completion of Work—Supplying Defects—Reference—Report of Referee—Appeals—Costs. *Elliott v. Simpson*, 8 O.W.N. 208.—APP. DIV.
30. Work and Labour—Items of Account—Evidence. *Cusson Brothers v. King*, 8 O.W.N. 298.—LENNOX, J.
31. Work and Labour—Sub-contract—Sub-contractors Bound by Provisions of Main Contract—Items of Claim and Counterclaim—Findings of Fact—Reference—Costs. *R. Weddell & Co. v. Larkin and Sangster*, 8 O.W.N. 499.—CLUTE, J.

See Bills and Notes—Company, 5, 6, 11, 12, 13, 16—Damages, 1—
Division Courts, 3—Evidence, 1—Fraud and Misrepresenta-
tion—Fraudulent Conveyance—Highway, 10—Infants, 2, 3—
Insurance—Land Titles Act—Landlord and Tenant—Mar-
riage—Master and Servant, 1—Mechanics' Liens—Municipal
Corporations, 3—Parent and Child—Partnership—Principal
and Agent—Sale of Goods—Statute of Frauds—Trusts and
Trustees, 1—Vendor and Purchaser.

CONTRACTING COMPANY.

See Company, 5.

CONTRIBUTION.

See Highway, 4—Negligence, 5.

CONTRIBUTORY.

See Company, 15, 16, 17.

CONTRIBUTORY NEGLIGENCE.

See Highway, 8—Master and Servant, 2—Mines and Minerals,
1, 3—Negligence, 4, 10—Railway, 5, 6—Street Railway—
Trial, 1.

CONVERSION OF CHATTELS.

Justification — Evidence — Chattel Mortgage — Lien-note —
Findings of Trial Judge—Appeal. *Burlak v. Beneroff*, 8
O.W.N. 140.—APP. DIV.

See Contract, 24—Division Courts, 3—Sale of Goods, 7.

CONVEYANCE OF LAND.

See Deed—Fraudulent Conveyance—Highway, 2—Infants, 4—
Limitation of Actions—Mortgage—Trusts and Trustees, 1.

CONVICTION.

See Assault—Criminal Law—Liquor License Act—Municipal
Corporations, 12.

CORPORATION.

See Company—Landlord and Tenant, 5—Municipal Corpora-
tions.

CORPORATIONS TAX ACT.

See Constitutional Law, 2.

CORROBORATION.

See Contract, 1—Evidence, 1—Gift—Railway, 3.

COSTS.

1. Scale of Costs—Action in Supreme Court against Several Defendants—Verdict of Jury—Damages within Competence of County Court—Title to Land Disputed by two Defendants—Set-off—Discretion—Rule 649—Judicature Act, sec. 74. *Liboirou v. McCormack*, 8 O.W.N. 400.—LENNOX, J.
 2. Scale of Costs—Taxation—Rent—Damages—Set-off—Appeal. *Peppiatt v. Reeder*, 8 O.W.N. 517, 526.—SUTHERLAND, J. (Chrs.)—APP. DIV.
 3. Security for Costs—Rule 373 (d), (g)—Stay of Proceedings—Refusal to Exercise Inherent Jurisdiction of Court. *Bateman v. Nussbaum*, 8 O.W.N. 250.—SUTHERLAND, J.
 4. Taxation between Party and Party—Appeal—Counsel Fees—Discretion—Application of Tariff of 1913 to Costs Previously Incurred. *Volcanic Oil and Gas Co. v. Chaplin*, 8 O.W.N. 66.—LENNOX, J. (Chrs.)
- See Appeal, 4—Assessment and Taxes, 5—Assignments and Preferences, 5—Carriers, 1—Company, 12, 13, 14, 19, 23—Contempt of Court, 1, 2—Contract, 4, 24, 27, 29, 31—Deed, 1—Execution, 1—Fraud and Misrepresentation, 3, 8, 11—Highway, 10—Husband and Wife, 1—Insurance, 1, 3, 5, 7, 8—Landlord and Tenant, 2—Libel, 2—Mechanics' Liens, 1—Mortgage, 1, 3, 4, 11, 13, 18—Municipal Corporations, 5, 6, 12—Nuisance, 1—Partnership, 5—Patent for Invention—Pleading, 5—Practice, 2—Principal and Agent, 3, 4—Railway, 1, 7—Receiver, 2—Solicitor, 1, 2—Trial, 2—Trusts and Trustees, 1, 3—Vendor and Purchaser, 1, 2, 3, 4, 6, 7, 10—Water, 1—Will, 4, 12, 22, 24.

COUNTERCLAIM.

- See Contract, 5, 12, 31—Dentistry—Fraud and Misrepresentation, 9—Landlord and Tenant, 1—Practice, 1—Principal and Agent, 1—Vendor and Purchaser, 2, 5.

COUNTY COURT JUDGE.

- See Appeal, 3—Assessment and Taxes, 4—Canada Temperance Act—Company, 21—Municipal Elections—Practice, 1—Receiver, 2.

COUNTY COURTS.

- See Costs, 1—Practice—Principal and Agent, 7.

COURT OF REVISION.

- See Assessment and Taxes, 4.

COURTS.

See Appeal—Canada Temperance Act—Division Courts.

COVENANT.

Conveyance of Land—Building Restriction—Effect of Tax Sale and Conveyance—Assessment Act, R.S.O. 1914 ch. 195, sec. 178—Vendor and Purchaser—Objection to Title—8 Edw. VII. ch. 118, sec. 8. **Re Hunt and Bell*, 8 O.W.N. 424, 581.—MIDDLETON, J.—APP. DIV.

See Mortgage, 5, 11—Vendor and Purchaser, 3, 11.

CREDITORS.

See Assignments and Preferences—Chattel Mortgage, 2—Company, 1, 14-24—Execution—Fraudulent Conveyance—Mortgage, 10.

CREDITORS' RELIEF ACT.

See Mortgage, 10.

CRIMINAL LAW.

1. Attempt to Commit Rape—Conviction by Police Magistrate Quashed for Want of Jurisdiction—Detention of Prisoner pending Preliminary Hearing by Magistrate—Procedure—Place of Detention. *Rex v. Manzi*, 8 O.W.N. 533.—LENNOX, J. (Chrs.)
2. Conspiracy—Indictment—Parties—"Others"—Inciting and Assisting Alien Enemy to Leave Canada and Join Enemy's Forces—Evidence—Verdict. **Rex v. Nerlich*, 8 O.W.N. 592.—APP. DIV.
3. Conviction for Rape—Application by Convict for Stated Case—Refusal by Trial Judge—Evidence—Judge's Charge—Communication with Jury when Considering Verdict—Absence of Doubt. **Rex v. Batterman*, 8 O.W.N. 554.—KELLY, J.
4. Depriving Children of Parental Control—Enticement of Father—Contributing to Making Children Juvenile Delinquents—Offence not Known to Law—Juvenile Delinquents Act, 1908, 7 & 8 Edw. VII. ch. 40, sec. 29 (D.)—Scope of—Evidence—Fair Trial—Conviction—Imprisonment—Habeas Corpus—Discharge. *Rex v. Curry*, 8 O.W.N. 512.—LENNOX, J. (Chrs.)

5. Director of Company—False Statement Made to Bank—Criminal Code, sec. 414—Statement as to Director's own Affairs Affecting his Responsibility as Guarantor—"Prospectus"—Amendment of Code by 3 & 4 Geo. V. ch. 13, sec. 16—Inapplicability to Previous Offence—Obtaining Credit by False Pretences—Criminal Code, sec. 405A.—Credit Given to Director by Bank upon Guarantee. *Rex v. Cohen*, 8 O.W.N. 110, 33 O.L.R. 340.—APP. DIV.
6. Motion to Quash Indictment—Refusal—Renewal after Disagreement of Jury—Criminal Code, secs. 216, 872, 873, 898. *Rex v. Perkins*, 8 O.W.N. 600.—SUTHERLAND, J.
7. Treason—Attempt to Commit—Evidence—Criminal Code, secs. 72, 74—"Assisting" Enemies to Leave Canada—Overt Acts—Trap-evidence—Enemies not Desiring to Leave Canada—Jury—Verdict—Form of. **Rex v. Snyder*, 8 O.W.N. 594.—APP. DIV.

See Assault—Liquor License Act—Municipal Corporations, 9, 12

CROWN GRANT.

See Trusts and Trustees, 2.

CROWN LEASE.

See Water, 1.

CUSTODY.

See Infants, 1, 3.

CUSTOMERS.

See Goodwill.

CUSTOMS BROKER.

See Principal and Agent, 4.

DAMAGES.

1. Breach of Contract to Take Electric Energy Supplied by Power Company—Measure of Damages—Peculiar Commodity—Money Damages Equivalent to Stipulated Price. *Kaministiquia Power Co. v. Superior Rolling Mills Co. Limited*, 8 O.W.N. 518.—BRITTON, J.
 2. Negligence—Personal Injury to Plaintiff. *Piozner v. Cottier*, 8 O.W.N. 51.—LENNOX, J.
- See Appeal, 7—Arbitration and Award, 3—Bailment—Carriers, 1, 2—Contract, 3, 4, 10, 12, 20—Costs, 1, 2—Execution, 1—

Fire—Fraud and Misrepresentation, 4, 6, 9, 10, 11—Goodwill—Highway, 6, 7—Judgment, 1—Landlord and Tenant, 2, 3—Marriage—Master and Servant—Mines and Minerals, 1—Nuisance, 3, 4—Pleading, 6—Principal and Agent, 4—Railway—Sale of Goods, 2—Trusts and Trustees, 1—Vendor and Purchaser, 1, 2, 7—Water, 1, 3.

DEATH.

See Distribution of Estates—Executors and Administrators—Factory Shop and Office Building Act—Insurance—Lunatic, 2—Marriage Settlement—Master and Servant—Mines and Minerals, 3—Negligence, 4, 5—Partnership, 2—Stay of Proceedings—Street Railway—Will.

DEBENTURES.

See Contract, 24.

DECLARATION OF TRUST.

See Trusts and Trustees, 3.

DECLARATORY JUDGMENT.

See Constitutional Law, 1—Pleading, 4.

DECEIT.

See Fraud and Misrepresentation, 10.

DEDICATION.

See Highway, 2.

DEED.

1. Conveyance of Land by Aged Person—Improvidence—Absence of Independent Advice—Consideration—Deed Set aside—Moneys Expended in Maintaining Grantor—Allowance for—Costs. *Bare v. Bare*, 8 O.W.N. 502.—BRITTON, J.
 2. Conveyance of Land by Parent to Child—Reservation of Life Estate—Evidence—Want of Understanding of Grantor—Improvidence—Undue Influence—Lack of Independent Advice—Estoppel. *Kirton v. Dillman*, 8 O.W.N. 429.—BRITTON, J.
- See Church—Company, 4—Covenant—Fraudulent Conveyance—Highway, 2—Infants, 4—Limitation of Actions—Marriage Settlement—Mortgage—Trusts and Trustees, 1.

DEFAMATION.

See Libel.

DEFECTIVE SYSTEM.

See Mines and Minerals, 1, 3.

DEMURRER.

See Pleading, 2.

DENTISTRY.

Charge for Services—Counterclaim for Malpractice—Evidence—
Onus—Findings of Fact of Trial Judge. *Hume v. McCarthy*,
8 O.W.N. 465.—LENNOX, J.

DEPARTMENT OF EDUCATION.

See Schools.

DEPOSIT.

See Banks and Banking—Contract, 2—Principal and Agent, 1.

DESERTION.

See Husband and Wife, 1.

DEVISE.

See Will.

DEVOLUTION OF ESTATES ACT.

See Pleading, 4.

DIRECT TAXATION.

See Constitutional Law, 2.

DIRECTORS.

See Company, 2, 5, 6, 8, 13—Criminal Law, 5.

DISCLAIMER.

See Discovery, 1.

DISCOVERY.

1. Examination of a Defendant as a Party and as an Officer of Defendant Companies—Disclaimer of Interest—Scope of Examination—Personal Knowledge Obtained in any Capacity—Single Examination. *Kennedy v. Suydam*, 8 O.W.N. 65.—MIDDLETON, J.
 2. Examination of Defendant Resident out of Ontario—Place of Examination—Rules 328, 331. *Trusts and Guarantee Co. v. Boal*, 8 O.W.N. 476.—MIDDLETON, J. (Chrs.)
 3. Examination of Parties—Scope of—Limitation to Case Made on Pleadings—Foundation for Amendment. *Clarke v. Robinet*, 8 O.W.N. 263.—MIDDLETON, J. (Chrs.)
- See Parties, 2.

DISCRETION.

See Company, 14, 20, 21, 22—Contract, 18—Costs, 1, 4—Gift—Jury Notice, 1—Mines and Minerals, 1—Municipal Corporations, 1, 7—Solicitor, 3—Will, 14, 18, 20.

DISMISSAL OF ACTION.

See Alien Enemy, 1, 2—Appeal, 4—Insurance, 1.

DISMISSAL OF SERVANT.

See Master and Servant, 1.

DISTRESS.

See Title to Land, 1.

DISTRIBUTION OF ESTATES.

Intestate Succession—Absentee Next of Kin—Presumption of Death—Inquiry—Reference—Liability. *Re Duncan*, 8 O.W.N. 568.—MIDDLETON, J. (Chrs.)

See Pleading, 4.

DITCHES AND WATERCOURSES ACT.

Award of Township Engineer—Construction of Drain—Land of Infant Affected by Award—Notice—"Owner"—Father—"Guardian of an Infant"—R.S.O. 1897 ch. 285, secs. 3, 8. *Healy v. Ross*, 8 O.W.N. 134, 33 O.L.R. 368.—APP. DIV.

DIVISION COURTS.

1. Appeal—Evidence Taken at Trial—Duty of Judge—Division Courts Act, R.S.O. 1914 ch. 63, sec. 106—New Trial. *Barrett v. Phillips*, 8 O.W.N. 2, 33 O.L.R. 203.—APP. DIV.
2. Garnishee Summons—Liquidator of Company Made Garnishee—Personal Liability for Wages of Persons Employed by Liquidator in Carrying on Business of Company after Winding-up Order—Leave to Proceed against Liquidator—Necessity for—Question of Law for Judge in Division Court—Motion for Prohibition. *Re Scott v. Silver*, 8 O.W.N. 552.—MIDDLETON, J. (Chrs.)
3. Jurisdiction—Jury Trial—Irregularity—Waiver—Claim for Damages for Conversion of Goods—Amount in Excess of Jurisdiction in Actions for Tort—Claim Actually Based on Contract—Amendment—Prohibition. *Re Cordingley v. Williamson*, 8 O.W.N. 536.—LENNOX, J. (Chrs.)

DIVISIONAL COURTS.

See Appeal—Evidence, 2—Municipal Elections.

DOWER.

See Will, 13.

DRAINAGE.

See Arbitration and Award, 3—Ditches and Watercourses Act—Easement, 1.

DURESS.

See Bills and Notes, 2.

EASEMENT.

1. Right to Drainage and Water Supply through Adjoining Tenement—Use of Unlawful Means—Municipal By-laws. *Wilson v. Smith*, 8 O.W.N. 117.—APP. DIV.
2. Right to Use Vacant Land for Turning Vehicles—Prescription—User—Evidence—Statute of Limitations—Unity of Title and Possession. *Simmons v. Powell*, 8 O.W.N. 274.—BRITTON, J.

See Boundaries—Highway, 1.

EDUCATION.

See Schools.

EJECTMENT.

See Contract, 1—Title to Land, 1.

ELECTION.

See Company, 9—Practice, 1—Vendor and Purchaser, 2, 6.

ELECTIONS.

See Municipal Elections.

ELECTRIC LIGHT COMPANY.

See Contract, 17, 18.

ELECTRIC POWER.

See Contract, 11—Damages, 1.

ELECTRIC RAILWAY.

See Railway, 4.

EMPLOYER'S LIABILITY.

See Master and Servant.

ENCROACHMENT.

See Highway, 3—Will, 10, 24.

ENHANCED PRICES.

See Contract, 28.

ENTERTAINMENT.

See Municipal Corporations, 3.

ENTICEMENT.

See Criminal Law, 4.

EQUITABLE ASSIGNMENT.

See Contract, 20.

EQUITABLE INTEREST.

See Title to Land, 2.

EQUITABLE RELIEF.

See Mortgage, 8.

ESTATE.

See Will.

ESTOPPEL.

See Banks and Banking—Company, 4, 15—Contract, 8, 18—Deed, 2—Fraudulent Conveyance, 3—Mortgage, 8, 17—Parties, 1, 2—Partnership, 3.

EVICTION.

See Landlord and Tenant, 1.

EVIDENCE.

1. Action for Money Due under Contract with Municipal Corporation—False Receipts—Fraudulent Conspiracy—Onus—Weight of Evidence—Testimony of Accomplices—Corroboration—Finding of Fact of Trial Judge. *Jess v. City of Hamilton*, 8 O.W.N. 489.—MIDDLETON, J.
 2. Motion to Divisional Court of Appellate Division for New Trial—Discovery of Fresh Evidence—Examination of Witnesses on Pending Motion—Leave of Court—Necessity for—Appointment. *Crowley v. Boving and Co. of Canada*, 8 O.W.N. 219, 33 O.L.R. 491.—APP. DIV.
- See Appeal, 1, 3—Arbitration and Award, 2—Assessment and Taxes, 1—Banks and Banking—Bills and Notes, 1, 3, 7—Boundaries—Carriers, 2—Company, 5, 11, 12, 15, 20—Contract, 1, 2, 6, 7, 13, 14, 20, 25, 30—Criminal Law, 2, 3, 4, 7—Deed, 2—Dentistry—Division Courts, 1—Easement, 2—Factory Shop and Office Building Act—Fire—Fraud and

Misrepresentation, 3, 8—Fraudulent Conveyance, 1, 3—Gift—Highway, 2, 3, 5—Insurance, 4—Libel, 2—Liquor License Act—Lunatic, 2—Master and Servant, 3—Mechanics' Liens, 3, 4—Mines and Minerals, 1, 3—Municipal Corporations, 5, 7—Partnership, 1, 3—Railway, 3, 4, 7—Sale of Goods, 1—Solicitor, 2—Vendor and Purchaser, 5, 9.

EXAMINATION OF JUDGMENT DEBTOR.

See Judgment Debtor.

EXAMINATION OF PARTIES.

See Discovery—Parties, 2.

EXAMINATION OF WITNESSES.

See Evidence, 2.

EXCHANGE OF LANDS.

See Vendor and Purchaser, 11.

EXECUTION.

1. Judgment—Satisfaction—Interpleader Issue—Judgments for Instalments of Purchase-price of Mill—Resale of Mill by Vendor—Sale of Interest in Land or of Chattel—Effect upon Judgments—Costs—Damages—Action on Interpleader Bond—Rights of Execution Creditors—Limitation of Amount Recoverable. *McPherson v. United States Fidelity and Guaranty Co.*, 8 O.W.N. 299, 33 O.L.R. 524.—APP. DIV.
2. Judgment for Recovery of Purchase-money of Land—Proceeding under Execution after Coming into Force of Mortgagors and Purchasers Relief Act, 1915—Necessity for Leave of Judge under sec. 2—Stay of Execution for Limited Period—Terms. *McMurtry v. Bullen*, 8 O.W.N. 401.—SUTHERLAND, J. (Chrs.)
3. Leave to Issue—Construction of Judgment. *Wigmore v. Greer*, 8 O.W.N. 250, 305.—SUTHERLAND, J.—APP. DIV.
4. Leave to Renew—Judicial Act—Judgment—Statute of Limitations. **Doel v. Kerr*, 8 O.W.N. 244, 581.—MIDDLETON, J. (Chrs.)—APP. DIV.

See Chattel Mortgage, 2—Mortgage, 10.

EXECUTORS AND ADMINISTRATORS.

Decease of Foreigner Having Property in Ontario—Letters of Administration Obtained from Ontario Court—Moneys Realised from Ontario Property—Payment by Ontario Ad-

ministrator to Foreign General Administratrix—Interest of Infants—Trustee Act, R.S.O. 1914 ch. 121, sec. 38 (2). **Re Law*, 8 O.W.N. 550.—BRITTON, J. (Chrs.).

See Alien Enemy, 1—Insurance, 4, 5—Pleading, 4—Stay of Proceedings—Surrogate Courts—Will.

EXECUTORY CONSIDERATION.

See Bills and Notes, 5.

EXECUTORY CONTRACT.

See Contract, 19, 26—Trusts and Trustees, 1.

EXPERT TESTIMONY.

See Contract, 14—Mines and Minerals, 1—Railway, 7.

EXPLOSION.

See Negligence, 6.

EXPROPRIATION.

See Arbitration and Award, 1—Municipal Corporations, 4, 5—Railway, 1, 2—Vendor and Purchaser, 10.

EXTRAS.

See Contract, 5, 12.

FACTORY SHOP AND OFFICE BUILDING ACT.

Death of Servant in Master's Burning Building—Absence of Fire-appliances and Presence of Inflammable Material—Non-compliance with Act 3 & 4 Geo. V. ch. 60—Cause of Death—Negligence or Breach of Duty not Proved to be Cause—Evidence—Difficulty of Establishing Causal Connection. *Birch v. Stephenson*, *McDougall v. Stephenson*, 8 O.W.N. 159, 33 O.L.R. 427.—APP. DIV.

FAIR COMMENT.

See Libel, 1.

FALSA DEMONSTRATIO.

See Will, 13.

FALSE PRETENCES.

See Criminal Law, 5.

FALSE RECEIPTS.

See Evidence, 1.

FALSE REPRESENTATIONS.

See Fraud and Misrepresentation.

FALSE STATEMENT.

See Criminal Law, 5.

FATAL ACCIDENTS ACT.

See Alien Enemy, 1.

FIRE.

1. Destruction of Property—Negligence—Evidence—Damages—Findings of Fact of Trial Judge—Appeal. *Nixon v. Nickerson*, 8 O.W.N. 15.—APP. DIV.
2. Setting out on Defendant's Land—Escape to Plaintiff's Land—Destruction of Plaintiff's Property—Fire Set out for Proper Purpose—Lack of Reasonable Care to Prevent it Spreading—Negligence—Findings of Fact of Trial Judge—Appeal—Damages—Quantum. *Hassan v. Reynolds*, 8 O.W.N. 136.—APP. DIV.

See Factory Shop and Office Building Act—Negligence, 11—Railway, 3.

FIRE INSURANCE.

See Insurance, 1—Principal and Agent, 6.

FORECLOSURE.

See Assignments and Preferences, 5—Mortgage, 1, 2, 3, 4, 9, 11, 12, 14.

FOREIGN ADMINISTRATOR.

See Executors and Administrators.

FORFEITURE.

See Assignments and Preferences, 1—Insurance, 7—Mines and Minerals, 2—Partnership, 5.

FORISFAMILIATION.

See Will, 20.

FORUM.

See Surrogate Courts.

FRANCHISE.

See Contract, 18.

FRAUD AND MISREPRESENTATION.

1. Agreement for Sale of Farm—Dismissal of Vendor's Action for Specific Performance—Rescission of Agreement. *Hopkins v. Edington*, 8 O.W.N. 236.—BRITTON, J.

2. Assignment of Interest in Estate in Consideration of Advances—Rescission—Repayment of Advances—Costs. *Hamilton v. Gallow*, 8 O.W.N. 440.—CLUTE, J.
 3. Inducement to Buy Company-shares—Proof of Fraud—Evidence—Costs. *Smith v. Haines*, 8 O.W.N. 235.—MIDDLETON, J.
 4. Money Paid for Assignment of Interest in Patented Invention—False Representations of Assignor's Agent—Rescission—Return of Money Paid—Damages for Detention. *Street v. Murray*, 8 O.W.N. 436.—LENNOX, J.
 5. Recovery of Moneys Obtained by—Statute of Limitations—Rescission—Amendment. *Johnston v. Haynes*, 8 O.W.N., 551.—LENNOX, J.
 6. Sale of Land—Damages. *Hocken v. Shaidle*, 8 O.W.N. 619.—CLUTE, J.
 7. Sale of Land—Fraudulent Scheme—Promissory Notes—Cancellation. *Trepannier v. Lalonde*, 8 O.W.N. 427.—MIDDLETON, J.
 8. Sale of Land—Misrepresentation by Vendor-company—Evidence—Rescission—Return of Purchase-money—Restitution—Assignees of Purchaser—Third Parties—Indemnity—Agency Contract—Res Judicata—Practice—Costs. *Oshawa Lands and Investments Limited v. Newsom*, 8 O.W.N. 260.—MIDDLETON, J.
 9. Sale of Land—Promissory Note—Counterclaim—Rescission—Damages. *Gentles v. Georgian Bay Milling Power Co.*, 8 O.W.N. 618.—CLUTE, J.
 10. Sale of Land—Rescission of Contract—Agent for both Parties—Reckless Statements—Secret Commission—Deceit—Damages. *Kennedy v. Martin*, 8 O.W.N. 427.—MIDDLETON, J.
 11. Sale of Theatre—Findings of Fact of Trial Judge—Rescission of Contract of Sale and Return of Money Paid—Deduction of Rent—Account—Damages—Reference—Costs. *Peppiatt v. Reeder*, 8 O.W.N. 84, 257.—LENNOX, J.—APP. DIV.
- See Bills and Notes, 6, 8—Company, 3, 5, 10—Contract, 14, 19, 21, 22, 26—Evidence, 1—Insurance, 9—Mortgage, 15—Partnership, 5—Principal and Agent, 3, 5—Receiver, 1—Vendor and Purchaser, 2.

FRAUDULENT CONVEYANCE.

1. Husband and Wife—Intent to Defeat Creditors of Husband—Claim of Creditor against Husband—Contract—Novation—Evidence. *Canadian Pressed Brick Co. v. Cole*, 8 O.W.N. 499.—MIDDLETON, J.
2. Husband and Wife—Property Conveyed to Wife by Stranger—Interest of Husband—Rights of Creditor of Husband—Absence of Fraud—Finding of Trial Judge—Appeal. *Bateman v. Scott*, 8 O.W.N. 256.—APP. DIV.
3. Husband and Wife—Reconveyance by Wife to Husband of Land Conveyed by Husband to Wife—Parol Agreement to Reconvey—Action by Judgment Creditors of Wife to Set aside Reconveyance—Absence of Fraudulent Intent—Evidence—Corroboration—Intent—Estoppel—Findings of Fact of Trial Judge—Appeal. *Windsor Auto Sales Agency v. Martin*, 8 O.W.N. 130, 252, 33 O.L.R. 354.—APP. DIV.

FRENCH LANGUAGE.

See Constitutional Law, 3—Schools.

GARNISHMENT.

See Attachment of Debts—Division Courts, 2.

GAS COMPANY.

See Highway, 4—Negligence, 6.

GIFT.

Evidence—Estate of Deceased Intestate—Corroboration—Trial—Jury—Discretion of Trial Judge—Appeal. *Trusts and Guarantee Co. Limited v. Smith*, 8 O.W.N. 587.—APP. DIV.

See Will.

GLEBE.

See Trusts and Trustees, 2.

GOODWILL.

Sale of Business—Canvassing Customers—Injunction—Damages. *Stewart v. Calbert*, 8 O.W.N. 437.—LENNOX, J.

See Partnership, 2.

GROSS NEGLIGENCE.

See Highway, 5.

GROUND RENT.

See Arbitration and Award, 2.

GUARANTY.

See Bills and Notes, 6—Contract, 4—Criminal Law, 5—Vendor and Purchaser, 12.

GUARDIAN.

See Ditches and Watercourses Act.

HABEAS CORPUS.

See Criminal Law, 4—Lunatic, 1.

HIGHWAY.

1. Closing and Sale of Unopened Portion of Street as Shewn on Plan—By-law of Township Council—Survey—Plan—Common and Public Highway—Effect of Exemption of Municipal Corporation from Obligation to Keep in Repair—Surveys Act, 1 Geo. V. ch. 42, sec. 44—Municipal Act, 1903, secs. 601, 607, 637 (1)—Sale of Lots according to Plan—Easements—Effect of Non-user—By-law not Passed in Public Interest—Evidence of—Bona Fides of Council—Exclusion of Land-owners from Access to Lands—Municipal Act, 1903, sec. 629 (1)—Authority of Council to Sell Portion of Road Closed without Offering it to Abutting Owners—Sec. 640 (11) of Act—Quashing Part of By-law. *Jones v. Township of Tuckersmith, Re Jones and Township of Tuckersmith*, 8 O.W.N. 344, 33 O.L.R. 634.—APP. DIV.
2. Dedication—Acceptance—By-law of Municipality—Waiver of Conveyance—Evidence—Findings of Trial Judge—Appeal. *Reaume v. City of Windsor*, 8 O.W.N. 505.—APP. DIV.
3. Encroachment of Building upon City Street—Failure to Prove Boundary of Street—Evidence—Plans and Surveys. *City of Toronto v. Pilkington Brothers Limited and Weber*, 8 O.W.N. 486.—APP. DIV.
4. Excavation in—Injury to Passer-by—Negligence of Gas Company—Finding of Jury—Possible Remedy against Municipal Corporation Lost by Failure to Give Notice under Municipal Act—Joint Tort-feasors—Effect of Release of one—Right of Contribution—Misfeasance—Nonfeasance. *King v. Consumers Gas Co. of Toronto*, 8 O.W.N. 494.—LENNOX, J.
5. Nonrepair—Accumulation of Snow and Ice on Sidewalk in Town—Injury to Pedestrian—Gross Negligence—Municipal Act, R.S.O. 1914 ch. 192, sec. 450, sub-sec. 3—Evidence—Liability of Town Corporation. *Edwards v. Town of North Bay*, 8 O.W.N. 119.—APP. DIV.

6. Nonrepair—Injury to Goods Carried in Waggon by Waggon Upsetting—Narrow Roadway—Want of Guard-rail—Negligence of Driver of Hired Waggon—Owners of Goods not Identified with Driver—Findings of Fact of Trial Judge—Damages. *Robinson Little & Co. v. Township of Dereham*, 8 O.W.N. 173.—FALCONBRIDGE, C.J.K.B.
7. Nonrepair—Injury to Person Lawfully Using Cement Sidewalk with Corrugated Surface Worn Smooth—Neglect to Roughen—Dangerous Condition—Notice to Municipal Corporation—Knowledge of Person Injured—Reasonable Care—Findings of Fact of Trial Judge—Damages. **Huth v. City of Windsor*, 8 O.W.N. 574.—SUTHERLAND, J.
8. Nonrepair—Injury to Traveller—Road Assumed by County Corporation—Highway Improvement Act, 7 Edw. VII. ch. 16, sec. 19 (O.)—Duty to Repair and Maintain—Negligence—Absence of Guard-rail at Dangerous Place—Contributory Negligence—Liability of County Corporation—Limits of Road Assumed—By-law—Construction—Findings of Trial Judge—Appeal. *Ackersviller v. County of Perth*, 8 O.W.N. 334, 33 O.L.R. 598.—APP. DIV.
9. Nonrepair—Snow and Ice on Sidewalk Opposite Church Property Used as Rink—Injury to Pedestrian—Claim against City Corporation—Failure to Give Notice Required by Municipal Act—Claim against Trustees of Church Property Occupied by Separate Organised but Unincorporated Body—Owner and Occupier—Liability—Nuisance Created by Servants of City Corporation. *Grills v. City of Ottawa*, 8 O.W.N. 313.—APP. DIV.
10. Obstruction—Sand-heap Left in Front of House in Course of Erection—Injury to Vehicle Running into it—Nuisance—Liability of Sub-contractors for Building—Non-liability of Principal Contractor—Other Defendants—Costs. *Robinson v. Campbell*, 8 O.W.N. 537.—SUTHERLAND, J.

See Contract, 17, 18—Municipal Corporations, 10.

HIGHWAY IMPROVEMENT ACT.

See Highway, 8.

HIRING.

See Master and Servant, 1.

HOLDING OUT.

See Partnership, 3—Principal and Agent, 3.

HOSPITAL.

See Contract, 16—Negligence, 8.

HUSBAND AND WIFE.

1. Alimony—Desertion—Quantum of Allowance—Leave to Apply—Costs. *Belisle v. Belisle*, 8 O.W.N. 296.—LENNOX, J.
2. Promissory Notes Made by Wife as Security for Loan to Husband—Knowledge of Wife of Nature of Transaction—Absence of Undue Influence—Want of Independent Advice. *Shilton Wallbridge & Co. v. Michie*, 8 O.W.N. 571.—SUTHERLAND, J.

See Fraudulent Conveyance—Infants, 2, 3—Marriage—Mortgage, 11—Receiver, 1.

ICE.

See Highway, 5, 9—Water, 2.

IMPROVIDENCE.

See Deed, 1, 2.

INCUMBRANCES.

See Mortgage—Vendor and Purchaser, 4, 5.

INDEMNITY.

See Company, 19—Fraud and Misrepresentation, 8—Mortgage, 5—Vendor and Purchaser, 11.

INDEPENDENT ADVICE.

See Deed, 1, 2—Husband and Wife, 2.

INDICTMENT.

See Criminal Law, 2, 6.

INDUSTRIAL WORKS.

See Nuisance, 4.

INFANTS.

1. Custody—Children's Aid Society—Children's Protection Act of Ontario, R.S.O. 1914 ch. 231. *Re Wardle* 8 O.W.N. 517.—SUTHERLAND, J. (Chrs.)
2. Custody—Husband and Wife—Separation Agreement—Provision Giving Wife Custody of Child with Right of Access by Husband—Construction—Meaning of "Access." *Re M., an Infant*, 8 O.W.N. 265, 33 O.L.R. 515.—MIDDLETON, J. (Chrs.)

3. Custody—Separation of Husband and Wife—Agreement as to Custody of Child—Welfare of Child. *Re Armstrong*, 8 O.W.N. 567.—MIDDLETON, J. (Chrs.)
 4. Undivided Interest in Land—Motion for Authorisation by Court of Conveyance—Security for Purchase-money—Official Guardian—Refusal of Motion. *Re Mack*, 8 O.W.N. 74.—SUTHERLAND, J. (Chrs.)
- See Ditches and Watercourses Act—Executors and Administrators—Partnership, 3—Will.

INFORMATION.

See Assault.

INJUNCTION.

- See Canada Temperance Act—Chattel Mortgage, 1—Company, 1—Contempt of Court—Goodwill—Municipal Corporations, 3, 9—Nuisance, 1, 4.

INSOLVENCY.

- See Assignments and Preferences—Company—Fraudulent Conveyance.

INSPECTOR.

See Company, 20.

INSURANCE.

1. Fire Insurance—Several Policies Issued by Different Companies—Apportionment of Loss—Mistake—Payment according to Apportionment Made—Action for Balance—Summary Dismissal as against two out of five Companies—Costs. *Adams v. Hudson Bay Insurance Co.*, 8 O.W.N. 435.—MIDDLETON, J.
2. Life Insurance—Benefit Certificate—Designation of Beneficiary—Alteration after Marriage—Mental Competency of Assured—Trial of Issue—Finding of Fact—Apportionment of Insurance Moneys. *Re Brotherhood of Railway Trainmen and Moore*, 8 O.W.N. 192.—LENNOX, J.
3. Life Insurance—Benevolent Society—Moneys Payable to Widow by Rules of Society—Preferred Beneficiary—Trust—Insurance Act, R.S.O. 1914 ch. 183, secs. 171 (3), 178 (2), 179 (1)—Effect of Will of Deceased—Costs. *Re Clarke*, 8 O.W.N. 613.—LENNOX, J. (Chrs.)
4. Life Insurance—Death of Insured and Wife (Beneficiary) and Child in same Disaster—Evidence—Presumption of Sur-

- vivorship—Payment of Insurance Moneys to Administrators of Insured. *Re Woodard*, 8 O.W.N. 608.—LENNOX, J. (Chrs.)
5. Life Insurance—Death of Sole Preferred Designated Beneficiary in Lifetime of Insured—Right of Widow where no Children—Insurance Act, R.S.O. 1914 ch. 183, sec. 178 (7)—Opposition of Executor of Deceased Beneficiary—Costs. *Re Edwards*, 8 O.W.N. 438.—MIDDLETON, J. (Chrs.)
 6. Life Insurance—Policies Declared to be for Benefit of Wife and Children—Only one Child Surviving Insured—Rights of Children of Deceased Children—Insured Dying after Act of 1912—Insurance Act, R.S.O. 1914 ch. 183, secs. 170, 171 (9), 178 (7). **Re Standard Life Assurance Co. and Keefer*, 8 O.W.N. 559.—MIDDLETON, J. (Chrs.)
 7. Life Insurance—Policy—Non-forfeiture Clause—Construction—“Cash Surrender Value”—Determination by Insurance Company—“Available”—Pleading—Contract—Forfeiture—Promissory Note Given for Part of Premium Unpaid—Waiver—Policy not in Force at Death of Assured—Costs of Appeal—Incorrect Material. *Devitt v. Mutual Life Insurance Co. of Canada*, 8 O.W.N. 210, 33 O.L.R. 473.—APP. DIV.
 8. Life Insurance—Presumption of Death of Insured—Absence of Seven Years—Evidence of Circumstances—Costs. *Linke v. Canadian Order of Foresters*, 8 O.W.N. 399.—MIDDLETON, J.
 9. Live Stock Insurance Misstatements of Facts in Application Filled in by Agent of Insurance Company—Absence of Knowledge by Assured—Untrue Statements by Assured—Construction of Policy—Fraud of Agent—Authority of Company's Agent as Agent of Assured—Mistake in Proofs of Loss. *Dowdy v. General Animals Insurance Co.*, 8 O.W.N. 61, 33 O.L.R. 258.—APP. DIV.
 10. Live Stock Insurance—Statutory Contract—Statutory Conditions—Agent—Answers in Application for Policy—Insurance Act, sec. 193—Variation of Conditions—“Not Just and Reasonable”—Ownership—Proofs of Loss—Value of Animal Insured—Deduction from Amount Insured. *Scharf v. General Animals Insurance Co. of Canada*, 8 O.W.N. 420.—LENNOX, J.

See Carriers, 2—Constitutional Law, 2.

INSURANCE BROKER.

See Principal and Agent, 6.

INTEREST.

See Bills and Notes, 4, 7—Company, 8—Limitation of Actions—Mortgage, 2, 4, 9, 20—Municipal Corporations, 5—Vendor and Purchaser, 4—Will, 4, 20, 31.

INTERPLEADER.

See Chattel Mortgage, 2—Execution, 1.

INTESTATE SUCCESSION.

See Distribution of Estates.

INTOXICATING LIQUORS.

See Canada Temperance Act—Liquor License Act—Municipal Corporations, 6, 7, 8.

INVENTION.

See Patent for Invention.

INVESTMENT.

See Will, 31.

ISSUE.

See Attachment of Debts.

JOINDER OF PARTIES.

See Parties—Pleading, 5.

JOINT TORT-FEASORS.

See Highway, 4.

JUDGES' ORDERS ENFORCEMENT ACT.

See Municipal Elections.

JUDGMENT.

1. Action for Damages for Breach of Directions in Judgment of Court—Right of Action on Judgment for Payment of Money—Limitation. *Parks v. Simpson*, 8 O.W.N. 154, 33 O.L.R. 382.—APP. DIV.
2. Correction—Power of Court where Judgment as Issued does not Conform to Judgment as Pronounced—Judgment of Trial Judge—Affirmance with Variation on Appeal—Effect of, as Regards Power to Correct Original Judgment. *Saskatchewan Land and Homestead Co. v. Moore*, 8 O.W.N. 458, 525.—KELLY, J.—APP. DIV.

3. Summary Judgment—Motion for—Action for the Price of Goods Sold and Delivered—Disputed Facts—Refusal of Motion. *Leitch Brothers Flour Mills Limited v. Dominion Bakery Co.*, 8 O.W.N. 83.—MASTER IN CHAMBERS.

4. Summary Judgment—Rules 56, 57—Affidavit Filed with Appearance—"Good Defence on the Merits"—Writ of Summons—Endorsement—Practice. *Martin v. Grantham*, 8 O.W.N. 616.—HOLMESTED, SENIOR REGISTRAR (Chrs.)

See Assessment and Taxes, 1—Assignments and Preferences, 5—Company, 13—Constitutional Law, 1—Contempt of Court, 1—Execution—Mechanics' Liens, 2—Mortgage, 6, 7, 9, 11—Nuisance, 2, 4—Pleading, 4—Practice, 2—Principal and Agent, 7—Receiver, 1.

JUDGMENT DEBTOR.

Examination of—Scope of Inquiry—Refusal to Answer as to Assets Removed to another Province—Rules 580, 587—Order for Further Examination—Refusal of Leave to Appeal. *McGuinty v. Hamer*, 8 O.W.N. 228.—MIDDLETON, J. (Chrs.)

JUDICIAL DECISIONS.

See Constitutional Law, 1.

JUDICIAL SALE.

See Contract, 15.

JURISDICTION.

See Arbitration and Award, 3—Assault—Assignments and Preferences, 3—Canada Temperance Act—Constitutional Law, 1—Criminal Law, 1—Division Courts, 2, 3—Libel, 2—Lunatic, 2—Mechanics' Liens, 2—Municipal Corporations, 2—Municipal Elections—Parties, 2—Pleading, 2, 4—Sale of Goods, 4—Vendor and Purchaser, 12—Will, 28.

JURY.

See Contract, 3—Costs, 1—Criminal Law, 3, 6, 7—Division Courts, 3—Gift—Highway, 4—Master and Servant—Mines and Minerals, 3—Negligence—Railway, 3-6—Street Railway—Trial, 1, 2.

JURY NOTICE.

1. Motion to Strike out—Discretion—Place of Trial. *McConnell v. Township of Toronto*, 8 O.W.N. 82.—LENNOX, J. (Chrs.)

2. Motion to Strike out—Issues of Fact—Application to Judge in Chambers—Adjournment to be Heard by Trial Judge. *Galvin v. Imperial Guarantee and Accident Insurance Co. of Canada*, 8 O.W.N. 402.—SUTHERLAND, J. (Chrs.)

JUSTICE OF THE PEACE.

See Assault.

JUVENILE DELINQUENTS.

See Criminal Law, 4.

LACHES.

See Company, 10.

LAKE.

See Water, 1.

LAND TITLES ACT.

Registration of Agreement Extending Time for Payment of Moneys Secured by Charge—Necessity for Execution by Owners of Charge—R.S.O. 1914 ch. 126, sec. 138, Rules 27, 28, 29, 30, 33. *Re Reid and Gooderham*, 8 O.W.N. 534.—SUTHERLAND, J. (Chrs.)

LANDLORD AND TENANT.

1. Lease—Assertion of Right of Way through Demised Premises—Eviction—Termination of Lease—Trespass—Destruction of Barrier to Use of Way—Action for Rent—Defence—Counterclaim. *Purvis v. Shepherd*, 8 O.W.N. 578.—SUTHERLAND, J.
2. Lease—Assignment without Leave—Unreasonable Refusal of Lessor to Consent—Right to Assign—Declaration—Damages—Costs. *Childs v. King*, 8 O.W.N. 511.—BRITTON, J.
3. Lease of Flat in Building—Implied Stipulation to Furnish Heat—Collateral Contract—Statute of Frauds—Damages for Inadequate Heating. **Brymer v. Thompson*, 8 O.W.N. 527.—MIDDLETON, J.
4. Lease to two Tenants—Omission of Clause Providing that Tenants shall Pay Taxes—Agreement by one Tenant to Pay Taxes—Absence of Knowledge by the Other—Statutory Right to Deduct Taxes from Rent—Payment of Taxes—Construction of Lease—Evidence—Interpretation Act. *Tyrrell v. Verral*, 8 O.W.N. 114.—APP. DIV.
5. Tenant Overholding after Expiry of Term and Paying Rent—Presumption—Tenancy from Year to Year—Corporation as Tenant. *Young v. Bank of Nova Scotia*, 8 O.W.N. 505, 34 O.L.R. 176.—APP. DIV.

See Arbitration and Award, 2—Company, 18.

LEASE.

See Landlord and Tenant.

LEAVE TO APPEAL.

See Appeal, 4, 5, 6—Mortgage, 7.

LEAVE TO PROCEED.

See Mortgage.

LEGACY.

See Will.

LIBEL.

1. Newspaper—Pleading—Statement of Defence—Fair Comment—Particulars. *Augustine Automatic Rotary Engine Co. Limited v. Saturday Night Limited*, 8 O.W.N. 508.—CLUTE, J. (Chrs.)
2. Newspaper—Security for Costs—Libel and Slander Act, R.S.O. 1914 ch. 71, sec. 12—Affidavit—Statement as to Means of Plaintiff Based on Inquiry—Sufficiency—Onus Probandi where Negative Required to be Proved—Order of Master in Chambers Refusing Motion for Security—Jurisdiction of Master—Appeal from Master's Order—Order of Judge—Appeal—Sec. 12, sub-sec. 4. *Augustine Automatic Rotary Engine Co. v. Saturday Night Limited*, 8 O.W.N. 426, 462, 503, 34 O.L.R. 166.—MIDDLETON, J. (Chrs.)—MEREDITH, C.J.C.P. (Chrs.)—APP. DIV.

See Appeal, 4.

LICENSES.

See Municipal Corporations, 1, 2, 6, 9, 12.

LIEN.

See Assessment and Taxes, 5—Company, 18—Mechanics' Liens—Mortgage, 11—Partnership, 5—Solicitor, 2—Title to Land, 2—Vendor and Purchaser, 10.

LIEN-NOTE.

See Conversion of Chattels.

LIFE ESTATE.

See Deed, 2—Marriage Settlement.

LIFE INSURANCE.

See Insurance, 2-8.

LIGHT.

See Boundaries.

LIMITATION OF ACTIONS.

Possession of Land—Tenancy at Will—Statutory Title—Limitations Act, R.S.O. 1914 ch. 75, sec. 6, sub-secs. 6, 7—Payment of Taxes to Municipal Authority—Parol Agreement—Payment as Rent—Acknowledgment—Outstanding Title of Mortgagee—Conveyance Absolute in Form Treated as Mortgage—Payment of Interest—Sec. 23 of Act. *East v. Clarke*, 8 O.W.N. 342, 33 O.L.R. 624.—APP. DIV.

See Bills and Notes, 4—Boundaries—Easement, 2—Execution, 4—Fraud and Misrepresentation, 5—Railway, 7—Title to Land, 1—Water, 2.

LIQUIDATOR.

See Assessment and Taxes, 5—Company, 14, 19—Contract, 24—Division Courts, 2.

LIQUOR LICENSE ACT.

1. Keeping Liquor for Sale on Unlicensed Premises—Conviction—Evidence—Liquor License Act, R.S.O. 1914 ch. 215, sec. 102 (2)—Conviction for Selling on same Day—Separate Offences—Sec. 88 (3) of Act—Motion to Quash Conviction—Notice—Judicature Act, R.S.O. 1914 ch. 56, sec. 63 (2). *Rex v. Sinkolo*, 8 O.W.N. 515.—LENNOX, J. (Chrs.)
2. Sale of Beer by Brewer under Provincial License to Unlicensed Person in Municipality in which Local Option By-law in Force—Meaning of "Sell" and "Sale"—R.S.O. 1914 ch. 215, sec. 155. *Rex v. Wright*, 8 O.W.N. 56, 33 O.L.R. 237.—APP. DIV.

See Municipal Corporations, 6, 7, 8.

LIVE STOCK INSURANCE.

See Insurance; 9, 10.

LOCAL IMPROVEMENT BY-LAW.

See Assessment and Taxes, 4.

LOCAL OPTION BY-LAW.

See Liquor License Act, 2—Municipal Corporations, 7, 8.

LOST GRANT.

See Contract, 18.

LUNATIC.

1. Confinement in Asylum of Person of Weak Mind—Habeas Corpus—Return—Finding of Fact—Discharge—Ontario

Habeas Corpus Act, R.S.O. 1914 ch. 84, sec. 7. *Re Davidson*, 8 O.W.N. 481.—BRITTON, J. (Chrs.)

2. Order Declaring Lunacy—Reference—Jurisdiction of Master—Duty of Committee—Payment into Court—Lunacy Act, 9 Edw. VII. ch. 37, sec. 11 (*d*)—Passing Accounts by Executor of Committee after Death of Committee and of Lunatic—Payments Made out of Lunatic's Estate—Gifts—Approval of Lunatic—Alleged Recovery of Sanity—Evidence—Lunacy Order not Superseded—Lunacy Act, R.S.O. 1914 ch. 68, sec. 10—Issues between Donees and Beneficiaries of Estate—Practice. *Re Rourke*, 8 O.W.N. 282, 33 O.L.R. 519.—MIDDLETON, J.

See Insurance, 2.

MAINTENANCE.

See Will, 20.

MALPRACTICE.

See Dentistry.

MANAGING DIRECTOR.

See Company, 8.

MANDAMUS.

See Company, 10—Municipal Corporations, 10.

MARINE INSURANCE.

See Carriers, 2.

MARRIAGE.

Contract to Marry—Action for Breach—Evidence—Abandonment of Contract by Mutual Consent—Damages—Provisional Assessment. *Orenstein v. Smith*, 8 O.W.N. 50.—LENNOX, J.

See Constitutional Law, 1—Insurance, 2—Will, 11; 12, 20.

MARRIAGE ACT.

See Constitutional Law, 1.

MARRIAGE SETTLEMENT.

Construction—Power of Appointment—Exercise of—Death of Appointee—Life Estate—Vested Remainder—Rights of Representative of Deceased. *Re Plumb*, 8 O.W.N. 284.—MIDDLETON, J.

MARRIED WOMAN.

See Husband and Wife—Receiver, 1.

MARSHALLING SECURITIES.

See Mortgage, 13.

MASTER AND SERVANT.

1. Contract of Hiring—Salary—Bonus — Dismissal — Reasonable Notice—Damages in Lieu of. *Evans v. Fisher Motor Co. Limited*, 8 O.W.N. 19.—CLUTE, J.
 2. Death of Servant—Lineman Ascending Pole—Condition of Pole—Negligence—Contributory Negligence — Inspection — Evidence—Findings of Jury—Supplemental Finding of Appellate Court. *Christie v. London Electric Co.*, 8 O.W.N. 124, 33 O.L.R. 395.—APP. DIV.
 3. Death of Servant—Negligence—Findings of Jury — Appeal — Evidence—Nonsuit—Building Trades Protection Act, R.S.O. 1914 ch. 228, sec. 6. *Stumpf v. Pulleyblank and Stephens*, 8 O.W.N. 1.—APP. DIV.
 4. Death of Servant—Railway Lineman Run over by Engine of another Railway Company when Returning from Work—Trespasser—Injury not Happening in Course of Employment — Workmen's Compensation for Injuries Act—Conforming to Orders of Superior — Negligence — Evidence — Absence of Warning—Findings of Jury. *Sharpe v. Canadian Pacific R.W. Co.*, 8 O.W.N. 127, 33 O.L.R. 402.—APP. DIV.
 5. Injury to Servant—Negligence—Findings of Jury—Evidence — Incompetence of Fellow-servant—Common Employment. *Ballantyne v. T. J. Eansor & Co.*, 8 O.W.N. 297.—LENNOX, J.
 6. Injury to Servant — Railway — "Hostler's Helper"—Negligence of Fellow-servant—Employment of Incompetent Person — Findings of Jury. *Levack v. Canadian Pacific R.W. Co.*, 8 O.W.N. 270.—FALCONBRIDGE, C.J.K.B.
 7. Liability of Master for Negligence of Servant—Driver of Hired Vehicle—Servant of Owner or Hirer—Evidence. *Balfour v. Bell Telephone Co. of Canada*, 8 O.W.N. 472, 34 O.L.R. 149.—APP. DIV.
- See Factory Shop and Office Building Act—Mines and Minerals, 1, 3—Negligence, 5, 8—Railway, 3—Trial, 1.

MASTER IN CHAMBERS.

See Libel, 2—Pleading, 2.

MASTER AND REFEREE.

See Appeal, 7, 8—Receiver, 2.

MECHANICS' LIENS:

1. Claim of Material-men—Amount “justly Owing” by Owner to Contractor—Payment in Advance—Entire Completion of Work under Contract not a Condition Precedent to Payment—Deduction for Non-completion of whole Contract—Draw-back—Costs. **Deldo v. Gough Sellers Investments Limited*, 8 O.W.N. 585.—APP. DIV.
2. Failure of Action to Enforce Lien—Commencement of Action after Expiry of Lien—Right to Recover Personal Judgment—Mechanics and Wage-Earners Lien Act, R.S.O. 1914 ch. 140, sec. 49—Jurisdiction. *Kendler v. Bernstock*, 8 O.W.N. 122, 33 O.L.R. 351.—APP. DIV.
3. Lien of Material-man—Date of Last Delivery—Dispute as to—Finding of Fact of Master—Appeal—Material Delivered on Premises to be Used in Building—Absence of Evidence that Lumber so Used—Mechanics and Wage Earners Lien Act, R.S.O. 1914 ch. 140, sec. 6. **Kalbfleisch v. Hurley*, 8 O.W.N. 584.—APP. DIV.
4. “Owner”—“Request” to Contractor to Build—Mechanics and Wage Earners Lien Act, R.S.O. 1914 ch. 140, sec. 2 (c)—Personal Liability—Evidence. *Orr v. Robertson*, 8 O.W.N. 471, 34 O.L.R. 147.—APP. DIV.

MESNE PROFITS.

See Contract, 1.

MINES AND MINERALS.

1. Injury to Miner—Explosion of Charge in Drilled Hole—Master and Servant—Negligence—Defective System—Evidence—Statutory Duty of Mine-owner—Mining Act of Ontario, R.S.O. 1914 ch. 32, sec. 164—Neglect to Report Missing Hole—Trial of Action—Refusal of Adjournment—Discretion—Expert Testimony—Cause of Injury—Contributory Negligence—Damages. *Doyle v. Foley-O'Brien Limited*, 8 O.W.N. 362, 34 O.L.R. 42.—APP. DIV.
2. Land Staked out and Recorded as Mining Claim—Right to Stake out and Record as Quarry Claim—Abandonment or Forfeiture—Discovery of Mineral in Place—Mining Act of Ontario, R.S.O. 1914 ch. 32, secs. 34, 118. *Re Franker and Bartleman*, 8 O.W.N. 360.—APP. DIV.

3. Statutory Obligations of Mine-owners—Mining Act of Ontario, R.S.O. 1914 ch. 32, sec. 164, rules 45, 98—Breach of—Death of Miner—Master and Servant—Negligence—Contributory Negligence—Evidence—Findings of Jury—Cause of Death—Employment of Incompetent Hoist-man—Defective System. *Hull v. Seneca Superior Silver Mines Limited*, 8 O.W.N. 301, 33 O.L.R. 557.—APP. DIV.

See Contract, 19—Vendor and Purchaser, 12.

MINING COMMISSIONER.

See Vendor and Purchaser, 12.

MISFEASANCE.

See Highway, 4.

MISNOMER.

See Parties, 2.

MISREPRESENTATION.

See Fraud and Misrepresentation.

MISTAKE.

See Arbitration and Award, 3—Banks and Banking—Contract, 26—Insurance, 1, 9—Mortgage, 11—Vendor and Purchaser, 6.

MONEY-LENDERS ACT.

See Mortgage, 9.

MONOPOLY.

See Municipal Corporations, 1.

MORTGAGE.

1. Action for Foreclosure—Application for Leave to Continue—Mortgagors and Purchasers Relief Act, 1915—Stay of Proceedings on Payment of Arrears and Costs. *Dolgoff v. Kenen*, 8 O.W.N. 431.—SUTHERLAND, J. (Chrs.)
2. Action for Foreclosure—Entry of Judgment—Application for Stay of Proceedings—Mortgagors and Purchasers Relief Act, 1915—Proceedings Stayed on Payment of Interest in Arrear. *Tutty v. Heller*, 8 O.W.N. 429.—SUTHERLAND, J. (Chrs.)
3. Action for Foreclosure—Mortgagors and Purchasers Relief Act, 1915—Validation of Proceedings—Leave to Proceed—Costs. *Paterson v. Gross*, 8 O.W.N. 431.—SUTHERLAND, J. (Chrs.)
4. Action for Foreclosure Begun before Passing of Mortgagors and Purchasers Relief Act, 1915—Principal and Interest in Arrear—Rights of Mortgagees Undisturbed by Act—Sec. 4, sub-sec. 3, of Act—Leave to Proceed Unnecessary—Costs of Motion. *Hind v. Gidlow*, 8 O.W.N. 327.—SUTHERLAND, J. (Chrs.)

5. Action on Mortgagor's Covenant for Payment—Motion under Mortgagors and Purchasers Relief Act, 1915, for Leave to Proceed—Scope and Meaning of Act—Ability of Mortgagor to Pay—Right of Mortgagor to Indemnity from Purchaser Subject to Mortgage—Apprehension as to Solvency of Purchaser. *Beswetherick v. Griesman*, 8 O.W.N. 439.—MIDDLETON, J. (Chrs.)
6. Assumption by Purchaser of Mortgaged Land—Obligation to Pay—Assignment to Mortgagee—Action against Mortgagor and Purchaser to Recover Mortgage-moneys—Judgment—Relief over—Indemnity—Stay of Proceedings. *Smith v. Wright*, 8 O.W.N. 609.—LENNOX, J.
7. Consent Judgment for Immediate Sale—Stay of Operation pending Outcome of Class Action to Determine Validity of Mortgage—Validity Upheld by Supreme Court of Canada—Pending Application for Leave to Appeal to Privy Council—No Appeal as of Right—Application for Further Stay Granted upon Onerous Terms—Security—Payment into Court—Rules 369, 370—Privy Council Appeals Act, R.S.O. 1914 ch. 54—Mortgagors and Purchasers Relief Act, 1915, sec. 4 (3). *Hughes v. Cordova Mines Limited*, 8 O.W.N. 372.—HODGINS, J.A. (Chrs.)
8. Estate Passing—Estoppel—Charge on Land—Sale—Equitable Relief. *Miller v. Buchan*, 8 O.W.N. 466.—LENNOX, J.
9. Excessive Rate of Interest—Ontario Money-Lenders Act, R.S.O. 1914 ch. 175, sec. 4—“Harsh and Unconscionable Transaction”—Reduction of Interest—Judgment—Account—Foreclosure. *Lavine v. Sonshine*, 8 O.W.N. 439.—LENNOX, J.
10. Executions—Distribution of Moneys Realised from Sale of Land for Satisfaction of Creditors and Incumbrancers—Rights of Mortgagees and Execution Creditors—Settlement of Priorities in Master's Office—Application and Effect of Creditors' Relief Act, R.S.O. 1914 ch. 81. *Union Bank of Canada v. Taylor*, 8 O.W.N. 72, 33 O.L.R. 255.—BOYD, C.
11. Foreclosure—Covenant for Payment—Title—Quit-claim Deed—Mistake—Reformation—Husband and Wife—Fraud—Undue Influence—Evidence—Assignment of Interest by one of Several Mortgagees pendente Lite—Addition of Assignee as Party—Rule 300—Recovery on Covenant—Ability to Reconvey—Form of Judgment—Payment into Court—Lien for Unpaid Purchase-money—Costs. *Naiman v. Wright*, 8 O.W.N. 492.—MIDDLETON, J.

12. Foreclosure — Redemption — Mortgagors and Purchasers Relief Act, 1915—Confirmation of Proceedings in Master's Office. *Gilbert v. Reynolds*, 8 O.W.N. 434.—MIDDLETON, J.
13. Instrument Covering two Parcels—Conveyances of Equities of Redemption by Mortgagor to Different Purchasers — Release of one Parcel from Mortgage—Giving Time to Mortgagor—Principal and Surety—Marshalling Securities—Reference—Costs. *Halstead v. Sonshine*, 8 O.W.N. 603.—BRITTON, J.
14. Mortgagors and Purchasers Relief Act, 1915—Interest—Leave to Proceed for Foreclosure or Sale. *Re Central Canada Loan and Savings Co. and Yanover*, 8 O.W.N. 522.—LENNOX, J. (Chrs.)
15. Power of Sale—Pretended Exercise of—Fraud—Setting aside Conveyance. *Chambers v. Le Burtis*, 8 O.W.N. 453.—LENNOX, J.
16. Proceedings to Enforce—Application for Leave under Mortgagors and Purchasers Relief Act, 1915—Arrangement between Mortgagor and Mortgagee for Receipt and Application of Rents of Mortgaged Properties. *Re Thomas and Morris*, 8 O.W.N. 403.—SUTHERLAND, J. (Chrs.)
17. Ratification — Promissory Note — Bank — Account — Estoppel—Reference—Report—Appeal. *Knowlton v. Union Bank of Canada*, 8 O.W.N. 219.—APP. DIV.
18. Sale Proceedings Taken to Realise Principal and Interest in Arrear—Mortgagors and Purchasers Relief Act, 1915, secs. 2 (a), 4 (3)—Leave to Continue Proceedings Unnecessary—Costs of Motion. *Toronto General Trusts Corporation v. Ritchie*, 8 O.W.N. 328.—HODGINS, J.A. (Chrs.)
19. Sale under Power in First Mortgage—Payment of Surplus into Court—Motion by Second Mortgagee for Payment out—Notice to Persons Interested. *Re O'Connor and Hamilton Provident and Loan Society*, 8 O.W.N. 610.—LENNOX, J. (Chrs.)
20. Second Mortgage—Instalments of Principal in Arrear—Motion for Leave to Bring Action—First Mortgage not in Arrear—Interest and Taxes Paid in Full—Financial Embarrassment Caused by War—Motion Refused. *Re Beswetherick and Greisman*, 8 O.W.N. 566.—MIDDLETON, J.

See Assignments and Preferences, 5—Church—Company, 14—
Limitation of Actions—Practice, 2—Receiver, 2—Title to
Land, 2—Trusts and Trustees, 1—Vendor and Purchaser,
4, 5, 11—Will, 12, 15, 31.

MORTGAGORS AND PURCHASERS RELIEF ACT, 1915.

See Execution, 2—Mortgage—Practice, 2.

MOTOR VEHICLES.

See Municipal Corporations, 2, 9—Negligence, 2, 3.

MOTOR VEHICLES ACT.

“Owner”—Liability for Negligence of Trespasser Causing Injury
to Stranger—2 Geo. V. ch. 48, sec. 19—Amendment by 4 Geo.
V. ch. 36, sec. 3. *Downs v. Fisher*, 8 O.W.N. 257, 33 O.L.R.
504.—APP. DIV.

MUNICIPAL CORPORATIONS.

1. By-law Limiting Pool-room Licenses in Town to one—Mono-
poly—Municipal Act, R.S.O. 1914 ch. 192, sec. 254—Effect
of secs. 249, 250—Discretion—Motion to Quash By-law. *Re*
Stewart and Town of St. Mary's, 8 O.W.N. 509, 34 O.L.R.
183.—LENNOX, J.
2. By-law of Police Commissioners for City—Motion to Quash—
Jurisdiction—Power of Board to Impose License Fees on
Owners and Drivers of Taxicabs—Municipal Act, R.S.O.
1914 ch. 192, sec. 422 (5). *Re Major Hill Taxicab and Trans-
fer Co. Limited and City of Ottawa*, 8 O.W.N. 59, 33 O.L.R.
243.—APP. DIV.
3. Carrying on “Show” Business in Municipal Building—By-law
—Lease—Illegality—Action by Ratepayer for Injunction—
By-law not Quashed—Contract—Parties—Employment of
Manager. *Crichton v. Township of Chapleau*, 8 O.W.N. 67.—
LENNOX, J.
4. Expropriation of Land—Compensation—Arbitration and
Award—Value of Land—Prospective Use—Deductions from
Value—Appeal. *Re Casci and City of Toronto*, 8 O.W.N. 588.
—APP. DIV.
5. Expropriation of Land by Public Parks Board of City—Public
Parks Act, R.S.O. 1914 ch. 203, sec. 17—Municipal Act,
R.S.O. 1914 ch. 192, secs. 344, 347—Compensation—Arbitra-
tion and Award—Quantum of Allowance—Evidence—Appeal

- Interest—Possession not Given—Costs. *Re Hislop and Stratford Park Board*, 8 O.W.N. 425, 34 O.L.R. 97.—BOYD, C.
6. Liquor License Reduction By-law—Liquor License Act, R.S.O. 1914 ch. 215, sec. 16—Petition for Submission of By-law to Electors—Petition Insufficiently Signed—Knowledge of Council—Report of Assessment Commissioner—Submission notwithstanding Insufficiency of Petition—By-law Approved by Electors and Passed by Council—Motion to Quash—Municipal Act, R.S.O. 1914 ch. 192, sec. 259—Application of—Powers of Board of Control of City—Powers of Municipal Council—Costs. *Re Greig and City of London*, 8 O.W.N. 177.—MIDDLETON, J.
 7. Local Option By-law—Motion to Quash—Discretion—Power of Court—Curative Clause of Municipal Act, R.S.O. 1914 ch. 192, sec. 150—Shifting of Onus of Proof as to Affecting Result—Voters' List—Municipal Act, sec. 266—Liquor License Act, R.S.O. 1914 ch. 215, sec. 137 (2)—Voters' Lists Act, R.S.O. 1914 ch. 6, sec. 24—"Matter Preliminary to the Poll"—Voters on List Disqualified in Point of Residence—Result of Determining that Votes Bad—Voter's Description not Given—Date of Third Reading of By-law—Illegal Council Meeting. **Re Sharp and Village of Holland Landing*, 8 O.W.N. 386, 507.—HODGINS, J.A.—APP. DIV.
 8. Local Option By-law—Motion to Quash—Similar By-law Submitted to Electors and not Approved—Diversity of Judicial Opinion—Motion Referred to a Divisional Court—Judicature Act, R.S.O. 1914 ch. 56, sec. 32—Irregularity in Service of Notice of Motion—Failure to File Affidavits in Time—Waiver—Solicitor's Slip—Municipal Act, R.S.O. 1914 ch. 192, sec. 286—Rules 184, 298. **Re Arthur and Town of Meaford*, 8 O.W.N. 557.—MIDDLETON, J.
 9. Police Commissioners' By-laws Imposing License Fees on Owners and Drivers of Motor Vehicles—Prosecutions under—Motion for Injunction. *Major Hill Taxicab and Transfer Co. Limited v. City of Ottawa*, 8 O.W.N. 446.—LATCHFORD, J.
 10. Regulation of Buildings on Residential Streets of City—Municipal Act, R.S.O. 1914 ch. 192, sec. 406 (10)—Municipal By-law—Erection or Placing of Building too near Line of Street—Steps Projecting from Wall of Building beyond Defined Line—Building Permit—Mandamus. *Re Masonic Temple Co. and City of Toronto*, 8 O.W.N. 226, 33 O.L.R. 497.—MIDDLETON, J. (Chrs.)

11. Smoke Prevention By-law of Urban Municipality—Municipal Act, R.S.O. 1914 ch. 192, sec. 400, sub-sec. 45—Application to Railway Locomotive Engine—Opening to Atmosphere from Smoke-stack—"Flue, Stack, or Chimney"—Dominion Railway Company—Municipal Law—Dominion Board of Railway Commissioners. *Rex v. Canadian Pacific R.W. Co.*, 8 O.W.N. 60, 33 O.L.R. 248.—APP. DIV.
 12. Transient Traders' By-law—Excessive License Fee—Municipal Act, R.S.O. 1914 ch. 192, sec. 420, para. 7 (c)—Motion to Quash Conviction—Irregularities—Costs. *Re Borrer's Conviction*, 8 O.W.N. 601.—SUTHERLAND, J. (Chrs.)
- See Arbitration and Award, 1—Assessment and Taxes—Contract, 17, 18—Easement, 1—Evidence, 1—Highway—Negligence, 11—Nuisance, 2, 3—Railway, 7—Water, 2.

MUNICIPAL DRAINAGE ACT.

See Arbitration and Award, 3.

MUNICIPAL ELECTIONS.

Proceedings to Unseat Persons Declared Elected—Municipal Act, R.S.O. 1914 ch. 192, secs. 161, 162, 163—Fiats Granted by County Court Judge—Interest of Relator not Made to Appear—Fiats Improperly Granted—Jurisdiction of County Court Judge to Set aside Fiats—Rule 217—Orders Refusing to Set aside Fiats—Right of Appeal from, to Divisional Court of Appellate Division—Persona Designata—Municipal Act, sec. 179 (1)—Judges' Orders Enforcement Act, R.S.O. 1914 ch. 79, sec. 4. *Rex ex rel. Boyce v. Porter, Rex ex rel. Boyce v. Ellis and Nelson*, 8 O.W.N. 307, 33 O.L.R. 575.—APP. DIV.

NAME.

See Parties, 2—Trade Mark.

NATURAL GAS.

See Contract, 9—Negligence, 6.

NATURALISATION.

See Alien Enemy, 3, 4.

NAVIGABLE RIVER.

See Assessment and Taxes, 3.

NAVIGABLE WATERS' PROTECTION ACT.

See Negligence, 1—Water, 1.

NAVIGATION.

See Water, 1, 2.

NEGLIGENCE.

1. Allowing Boulder Placed in Stream to Remain Unmarked without Warning to Navigators—Injury to Vessel—Navigable Waters' Protection Act, R.S.C. 1906 ch. 115, sec. 14—Evidence—Findings of Fact of Trial Judge. *Shenango Steamship Co. v. Soo Dredging and Construction Co. Limited*, 8 O.W.N. 530.—BRITTON, J.
2. Collision between Street Car and Automobile—Derailment of Car—Res Ipsa Loquitur—Evidence—Findings of Jury. *Curry v. Sandwich Windsor and Amherstburg R.W. Co.*, 8 O.W.N. 287.—LENNOX, J.
3. Collision of Vehicles on Highway—Findings of Jury—Evidence—Appeal. *Gooderham v. Toronto R.W. Co.*, 8 O.W.N. 3.—APP. DIV.
4. Death of Person Operating Derrick—Negligence of Owner of Derrick—Negligence of Hirer—Findings of Jury—Evidence—Contributory Negligence. *Dube v. Algoma Steel Corporation Limited*, 8 O.W.N. 513.—BRITTON, J.
5. Death of Servant of Shipping Company by Breaking of Cable in Moving Ship—Negligence of Foreman of Shipping Company and Railway Company—Findings of Jury—Defective Plant—Lending of Appliances and Men by Railway Company to Shipping Company—Gratuitous Bailment—Liability of both Companies—Contribution inter se. *MacTague v. Inland Lines Limited*, 8 O.W.N. 183.—CLUTE, J.
6. Explosion of Natural Gas in Cellar of Dwelling-house—Escape from Underground Pipes of Gas Company—Break in Pipe—Cause of—Findings of Jury—Liability of Company. *Stables v. United Gas and Fuel Co.*, 8 O.W.N. 105.—APP. DIV.
7. Injury to Horse by Collision with Street Car—Negligent Operation of Engine and Cable—Findings of Jury—Duty Owing to Invitee—Patent Danger—Voluntary Assumption of Risk. *Keech v. Sandwich Windsor and Amherstburg R.W. Co.*, 8 O.W.N. 96.—APP. DIV.
8. Injury to Patient in Hospital—Carelessness of Attendants—Public Charitable Institution—Liability—Care in Selection of Attendants—Master and Servant. **Lavere v. Smith's Falls Public Hospital*, 8 O.W.N. 548.—BRITTON, J.

9. Injury to Road Engine—Defective Condition of Private Road—Findings of Jury—New Trial Directed because Negligence Found not Connected with Injury—Connection Found by Jury at New Trial—Question of Negligence Raised on Appeal—Res Adjudicata—Evidence. *Everton v. Kilgour*, 8 O.W.N. 365.—APP. DIV.
10. Operation of Street Railway Car in City—Running over Valuable Dog—Findings of Jury—"Proper Control" of Dog by Owner—Police Commissioners' By-law—Contributory Negligence—Evidence. *Lucas v. City of Toronto*, 8 O.W.N. 253.—APP. DIV.
11. Removal by City Firemen of Dangerous Substance from Burning Building—Explosion after Removal—Injury to Person—Liability—Agency of Firemen for Owner of Building—Findings of Jury—Liability of City Corporation—Evidence. *Lester v. City of Ottawa*, 8 O.W.N. 295, 591.—LENNOX, J.—APP. DIV.
- See Carriers, 2—Damages, 2—Factory Shop and Office Building Act—Fire—Highway, 4-8—Master and Servant—Mines and Minerals, 1, 3—Motor Vehicles Act—Principal and Agent, 2, 4—Railway, 3-7—Sale of Goods, 6—Street Railway—Trial, 1—Water, 3.

NEGOTIABLE INSTRUMENTS.

See Bills and Notes.

NEW TRIAL.

See Carriers, 2—Division Courts, 1—Evidence, 2—Negligence, 9—Trespass—Trial, 1, 2.

NEWSPAPER.

See Appeal, 4—Libel.

NONFEASANCE.

See Highway, 4.

NONREPAIR OF HIGHWAY.

See Highway, 5-9.

NONSUIT.

See Master and Servant, 3.

NOTICE.

See Arbitration and Award, 3—Bills and Notes, 8—Company, 17—Ditches and Watercourses Act—Highway, 4, 7, 9—Liquor License Act, 1—Master and Servant, 1—Mortgage, 19—Title to Land, 2—Trusts and Trustees, 3—Vendor and Purchaser, 2.

NOTICE OF CANCELLATION.

See Principal and Agent, 6.

NOTICE OF CONTESTATION.

See Assignments and Preferences, 1.

NOTICE OF MOTION.

See Municipal Corporations, 8.

NOTICE OF TRIAL.

See Pleading, 1.

NOVATION.

See Company, 11, 13—Contract, 20—Fraudulent Conveyance, 1.

NUISANCE.

1. Damages—Injunction—Reference—Costs. *Lauzon v. Dominion Stamping Co.*, 8 O.W.N. 329.—MIDDLETON, J.
2. Dumping Refuse near Vacant Land in City—Liability of City Corporation—Opportunity to Abate Nuisance—Delay of Judgment. *Reynolds v. City of Windsor*, 8 O.W.N. 234.—LENNOX, J.
3. Obstruction of Street—Peculiar Damage to Occupant of Shop—Loss of Business—Assessment of Damages. *Lord v. Sandwich Windsor and Amherstburg R.W. Co.*, 8 O.W.N. 194.—LENNOX, J.
4. Smoke, Dust, and Noise from Industrial Works—Interference with Enjoyment of Neighbouring Dwelling-houses—Direct and Peculiar Injury to Individuals—Evidence—Sunday Work—Damages—Injunction—Appeal—Variation in Form of Judgment. *Taylor v. Mullen Coal Co.*, 8 O.W.N. 445.—APP. DIV.

See Highway, 9, 10.

OBSTRUCTION.

See Highway, 10—Nuisance, 3—Water, 1.

OFFICIAL GUARDIAN.

See Infants, 4.

OIL LEASES.

See Contract, 9.

ONTARIO RAILWAY AND MUNICIPAL BOARD.

See Assessment and Taxes, 1.

ORDER IN COUNCIL.

See Company, 4—Water, 1.

OVERHOLDING TENANT.

See Landlord and Tenant, 5.

PARENT AND CHILD.

Son Working for Father on Farm—Wages—Presumption—Rebuttal—Contract—Evidence. *Smith v. Smith*, 8 O.W.N. 615.—FALCONBRIDGE, C.J.K.B.

See Contract, 1—Criminal Law, 4—Deed, 2—Ditches and Water-courses Act—Infants—Will.

PARK.

See Municipal Corporations, 5.

PARTICULARS.

See Libel, 1—Pleading, 6.

PARTIES.

1. Addition of Co-plaintiff—Class Action—Company—Alleged Estoppel of Original Plaintiff—Rule 134. *Crawford v. Bathurst Land and Development Co.*, 8 O.W.N. 325.—MULOCK, C.J.Ex. (Chrs.)
 2. Uncertainty as to Identity of Plaintiff—Misnomer—Person Acknowledging himself to be Plaintiff and Submitting to Examination for Discovery—Estoppel—Order Amending Style of Cause by Changing Name—Jurisdiction to Set aside Order—Rule 217—Order Right on Merits—Restoration on Appeal. *Barisino v. Curtis & Harvey (Canada) Limited*, 8 O.W.N. 195.—APP. DIV.
- See Canada Temperance Act—Carriers, 1—Criminal Law, 2—Discovery—Fraud and Misrepresentation, 8—Mortgage, 11—Municipal Corporations, 3—Partnership, 3, 5—Pleading, 5—Principal and Agent, 4—Railway, 7—Vendor and Purchaser, 3, 8, 12—Will, 4.

PARTNERSHIP.

1. Contribution of Capital—Construction of Written Agreements—Evidence to Vary. *Richman v. Brandon*, 8 O.W.N. 467.—SUTHERLAND, J.
2. Death of Partner—Determination of Questions Arising upon Partnership Articles—Implication of Terms—Right of Surviving Partner to Take over Interest of Deceased Partner upon Payment of Share of Capital with Interest and Profits—

Right of Representatives of Deceased to Share in Profits—Termination of Period—Goodwill—Valuation of Share—Balance-sheets. *Re Wood Vallance & Co.*, 8 O.W.N. 267, 583.—MIDDLETON, J.—APP. DIV.

3. Holding out—Evidence of Holding out to Others than Plaintiff Seeking to Make Defendants Liable by Estoppel—Inadmissibility—Evidence Impeaching Defendants' Veracity—Failure to Establish Holding out to Plaintiff—Infant—Parties. *Ray v. Gettas*, 8 O.W.N. 318.—MIDDLETON, J.
 4. Profits—Account. *Bennett v. Pearce*, 8 O.W.N. 278.—SUTHERLAND, J.
 5. Purchase of Farm by Syndicate—Profits Received by two Members—Concealment and Misrepresentation—Lien—Sale of Property—Dissolution of Partnership—Account—Parties—Costs—Forfeiture. *Bell v. Smith*, 8 O.W.N. 49, 504.—LENNOX, J.—APP. DIV.
- See Contract, 9—Chattel Mortgage, 2.

PASSING ACCOUNTS.

See Receiver, 2—Surrogate Courts.

PASSING-OFF.

See Trade Mark.

PATENT FOR INVENTION.

Absence of Novelty and Usefulness—Adaptation of Principle Previously Discovered — Evidence — Infringement — Costs. *Kohlmeyer v. Canadian Bartlett Automobile Co. Limited*, 8 O.W.N. 457.—MEREDITH, C.J.C.P.

See Fraud and Misrepresentation, 4.

PAYMENT.

See Bills and Notes, 6.

PAYMENT INTO COURT.

See Lunatic, 2—Mortgage, 11, 19—Railway, 1.

PAYMENT OUT OF COURT.

See Mortgage, 19—Settled Estates Act.

PERSONA DESIGNATA.

See Municipal Elections.

PLAN.

See Highway, 1, 3.

PLEADING.

1. Reply—Motion to Strike out Parts of—Questions of Law and Fact to be Disposed of at Trial—Leave to Rejoin—Notice of Trial—Motion to Strike out as Irregular. *Bradshaw v. Grossman*, 8 O.W.N. 522.—MASTER IN CHAMBERS.
2. Reply—Statute of Frauds—Action for Possession of Land—Motion to Strike out Reply—Jurisdiction of Master in Chambers—Demurrer. *Wingrove v. Wingrove*, 8 O.W.N. 26.—MIDDLETON, J.
3. Statement of Claim—Amendment—Prejudice—Refusal of Motion in Chambers—Leave to Renew at Trial. *Delap v. Canadian Pacific R.W. Co.*, 8 O.W.N. 293.—MIDDLETON, J. (Chrs.)
4. Statement of Claim—Motion to Strike out, as Disclosing no Reasonable Cause of Action—Rule 121—Excision of Portions of Pleading—Declaratory Judgment—Judicature Act, sec. 16, (b)—Action against Administratrix for Distributive Share of Estate—Time for Bringing—Devolution of Estates Act, sec. 32—Jurisdiction of Surrogate Court—Surrogate Courts Act, sec. 71 (3). *Oke v. Oke*, 8 O.W.N. 180.—SUTHERLAND, J. (Chrs.)
5. Statement of Claim—Motion to Strike out, as Disclosing no Reasonable Cause of Action and for Misjoinder of Parties—Refusal to Try Legal Issues Separately—Dismissal of Motion—Leave to Renew at Trial—Costs. *Rankin v. Vokes*, 8 O.W.N. 34.—MIDDLETON, J. (Chrs.)
6. Statement of Claim—Trade Name—Deception—Damages—Amounts Claimed—Rule 145—Amendment—Particulars. *Washington and Johnston v. Raper Washington and Flury Burial Co. Limited*, 8 O.W.N. 523.—MASTER IN CHAMBERS.
7. Statement of Defence—Res Judicata. *Bradshaw v. Grossman*, 8 O.W.N. 275.—SUTHERLAND, J. (Chrs.)

See Discovery, 3—Insurance, 7—Libel, 1—Practice, 1.

POLICE COMMISSIONERS.

See Municipal Corporations, 2, 9—Negligence, 10.

POLICE MAGISTRATE.

See Criminal Law, 1.

POSSESSORY TITLE.

See Limitation of Actions.

POWER OF APPOINTMENT.

See Marriage Settlement—Will, 30.

POWER OF SALE.

See Mortgage, 15, 18, 19—Will, 10, 11.

PRACTICE.

1. County Courts—Action for Money Demand—Writ of Summons—Special Endorsement—Affidavit Filed with Appearance—Election of Plaintiff to Treat Endorsement and Affidavit as Record—Ex Parte Order of Junior Judge Allowing Defendant to Deliver Statement of Defence—Delivery of Statement of Defence and Counterclaim—Order of Senior Judge Setting aside—Determination that Pleadings Unnecessary—Right to Deliver Counterclaim—Rules 56, 112—Right of Appeal—County Courts Act, R.S.O. 1914 ch. 59, sec. 40 (2)—Final Order. *Davis Acetylene Gas Co. v. Morrison*, 8 O.W.N. 474, 34 O.L.R. 155.—APP. DIV.
 2. Substituted Service of Writ of Summons—Service by Mailing—Service Effective from Date of Mailing—Judgment—Regularity—Mortgage Action—Stay of Proceedings under Mortgagees and Purchasers Relief Act, 1915—Condition of Payment of Nominal Sum for Costs. *Creasor v. Bonstelle*, 8 O.W.N. 558.—MIDDLETON, J. (Chrs.)
- See Alien Enemy—Appeal—Attachment of Debts—Contempt of Court—Costs—Discovery—Execution—Fraud and Misrepresentation, 8—Judgment—Judgment Debtor—Jury Notice—Lunatic—Mortgage—Municipal Corporations, 8—Parties—Pleading—Principal and Agent, 7—Receiver—Settled Estates Act—Solicitor—Stay of Proceedings—Surrogate Courts.

PREFERENCE.

See Assignments and Preferences.

PREFERENTIAL LIEN.

See Company, 18.

PREFERRED BENEFICIARY.

See Insurance, 3, 5.

PRESCRIPTION.

See Easement, 2.

PRESUMPTION.

See Distribution of Estates—Insurance, 4, 8—Landlord and Tenant, 5—Parent and Child.

PRINCIPAL AND AGENT.

1. Agent's Commission on Sale of Land and Business—Purchaser Found by Agent and Agreement Signed—Parties not ad Idem—Sale not Completed—Payment of Deposit by Proposed Purchaser to Agent—Right of Principal to Recover from Agent—Counterclaim. *Moody v. Murray*, 8 O.W.N. 138.—APP. DIV.
2. Claim for Commission on Sale of Land—Failure to Establish Agency—Recognition of Agent by Name and Promise to Pay Commission Inserted in Sale Contract without Knowledge of Vendor—Absence of Negligence. **Rose v. Mahoney*, 8 O.W.N. 547.—APP. DIV.
3. Contract for Purchase of Goods Made by Supposed Agent of Defendant—Failure of Plaintiff to Prove Agency—Ratification—Holding out—Secret Commission—Fraud—Storage Charges—Recovery of Small Sum—Costs. *Stoney Point Canning Co. v. Barry*, 8 O.W.N. 411.—MIDDLETON, J.
4. Customs Broker—Breach of Duty—Depriving Principal of Control over Goods—Negligently Entrusting Sub-agent with Bill of Lading Endorsed in Blank—Misdelivery of Goods—Negligence of Sub-agent and of Carriers—Third Parties—Liability over—Damages—Costs. *Wolsely Tool and Motor Car Co. v. Jackson Potts & Co.*, 8 O.W.N. 311, 33 O.L.R. 587.—APP. DIV.
5. Fraud of Agent—Purchase of Land for Principal—Responsibility of Vendor for Fraud of Purchaser's Agent—Evidence—Secret Commission—Rescission. *Cooper v. Parsons Realty Co.*, 8 O.W.N. 487.—MIDDLETON, J.
6. Insurance Broker—Fire Insurances Obtained for Principal—Payment of Amount of Premiums to Agent—Course of Dealing between Broker and Insurance Companies—Acceptance of Agent as Debtor—Res inter Alios—Validity of Policies—Notices of Cancellation—Duty of Agent. *Antiseptic Bedding Co. v. Gurowski*, 8 O.W.N. 92, 33 O.L.R. 319.—APP. DIV.

7. Undisclosed Principal—Action against Principal and Agent—Judgment Obtained against Agent by Default—Bar to Prosecution of Action against Principal—Judgment not to be Set aside except on Consent of Principal—County Court Appeal—Right of Appeal—Order “Final in its Nature”—County Courts Act, R.S.O. 1914 ch. 59, sec. 40 (2). *M. Brennen & Sons Manufacturing Co. Limited v. Thompson*, 8 O.W.N. 206, 33 O.L.R. 465.—APP. DIV.

See Contract, 6, 27—Fraud and Misrepresentation, 8, 10—Insurance, 9, 10—Negligence, 11—Sale of Goods, 6—Vendor and Purchaser, 3, 9.

PRINCIPAL AND SURETY.

See Assignments and Preferences, 3—Mortgage, 13—Sale of Goods, 3—Statute of Frauds.

PRIORITIES.

See Mortgage, 10.

PRIVY COUNCIL.

See Mortgage, 7.

PROBATE.

See Will, 1.

PROHIBITION.

See Division Courts, 2, 3.

PROMISSORY NOTES.

See Bills and Notes—Contract, 25—Fraud and Misrepresentation, 7, 9—Husband and Wife, 2—Insurance, 7—Mortgage, 17—Sale of Goods, 2, 3.

PROOFS OF LOSS.

See Insurance, 9.

PROSPECTUS.

See Company, 9, 17—Criminal Law, 5.

PROVINCIAL LEGISLATURE.

See Constitutional Law.

PROVINCIAL SECRETARY.

See Company, 4.

PUBLIC CHARITY.

See Negligence, 8.

PUBLIC INTEREST.

See Highway, 1.

PUBLIC PARKS ACT.

See Municipal Corporations, 5.

QUARRY.

See Mines and Minerals, 2.

RACING ASSOCIATION.

See Company, 5.

RAILWAY.

1. Expropriation of Land—Award of Compensation Set aside—Railway Company in Possession—Compensation—money Paid into Court—Refusal of Land-owner to Take out—No Further Proceedings Taken—Application by Company for Appointment to Tax Costs—Railway Act, secs. 199, 204. **Re Windatt and Georgian Bay and Seaboard R.W. Co.*, 8 O.W.N. 528.—MIDDLETON, J. (Chrs.)
2. Expropriation of Land — Compensation — Arbitration and Award—Special Value of Land for Business Carried on by Claimants—Business Disturbance—Elements of Damage. **Re Schooley and Lake Erie and Northern R.W. Co.*, 8 O.W.N. 589.—APP. DIV.
3. Fire from Locomotive Engine—Destruction of Property—Control of Engine at Time of Escape of Fire—Liability of Railway Company for Act of Servant—Scope of Employment—Evidence—Corroboration—Onus—Findings of Jury. *Conway v. Dennis Canadian Co.*, 8 O.W.N. 142.—APP. DIV.
4. Injury to Person Crossing Track of Electric Railway on Company's Land—Private Driveway across Track Used with Knowledge of Company—Dangerous Crossing—Duty to Give Warning of Approach of Car—Negligence—Findings of Jury—Evidence. *Gowland v. Hamilton Grimsby and Beamsville Electric R.W. Co.*, 8 O.W.N. 152, 33 O.L.R. 372.—APP. DIV.
5. Level Highway Crossing—Person Crossing Track in Sleigh Killed by Train Moving Reversely—Negligence—Contributory Negligence—Findings of Jury—Dominion Railway Act, sec. 276—Appliances for Warning Persons about to Cross—Incompetent Flagman—Damages. *Mitchell v. Grand Trunk R.W. Co.*, 8 O.W.N. 78, 300.—MULOCK, C.J.Ex.—APP. DIV.

6. Level Highway Crossing—Person Struck by Yard Engine and Killed—Negligence—Neglect to Give Warning of Approach of Engine—Contributory Negligence of Deceased—Going between Lowered Gates at Crossing—Gates not Maintained by Statutory Authority or under Direction of Board of Railway Commissioners—Railway Act, R.S.C. 1906 ch. 37, sec. 279—Jury. *Garside v. Grand Trunk R.W. Co.*, 8 O.W.N. 156, 33 O.L.R. 388.—APP. DIV.
7. Public Footway under Tracks in City—Dangerous Condition—Injury to Pedestrian—Negligence—Liability of Railway Company—Dominion Railway Act, R.S.C. 1906 ch. 37, sec. 241—Liability of City Corporation Added as Party after Action Begun—Action Barred by Municipal Act, R.S.O. 1914 ch. 192, sec. 460 (2)—Action Treated as Begun when Party Added—Damages—Expert Witnesses—Evidence Act, R.S.O. 1914 ch. 76, sec. 10—Costs. *Burrows v. Grand Trunk R.W. Co.*, 8 O.W.N. 459, 484, 34 O.L.R. 142.—CLUTE, J.
- See Assessment and Taxes, 3—Master and Servant, 4, 6—Municipal Corporations, 11—Negligence, 5—Receiver, 2—Street Railway—Trial, 1—Vendor and Purchaser, 10.

RAPE.

See Criminal Law, 1, 3.

RATIFICATION.

See Company, 5, 9—Mortgage, 17—Principal and Agent, 3—Vendor and Purchaser, 9.

RECEIVER.

1. Application for Receivership Order—Business and Property of Married Woman—Judgment Obtained against Husband—Absence of Fraud. *Walker v. Brown*, 8 O.W.N. 484.—BRITTON, J.
2. Appointment of, on Behalf of Trustee for Holders of Mortgage Bonds of Railway Company—Remuneration Fixed by Master on Passing Accounts—Bondholders not Represented—Appointment of Solicitor as Representative—Lapse upon Appointment as County Court Judge—Relationship of Receiver to Trustee—Leave to Bondholders to Appeal from Master's Reports after Time Expired—Re-opening Accounts—Ruling of Master—Leave to Appeal from—Necessity for Certificate—Practice—Costs. *Trusts and Guarantee Co. Limited v. Grand Valley R.W. Co.*, 8 O.W.N. 416, 34 O.L.R. 87.—HODGINS, J.A.

REDEMPTION.

See Mortgage, 12—Trusts and Trustees, 1.

REFERENCE.

See Appeal, 7, 8—Contract, 29, 31—Nuisance, 1—Stay of Proceedings—Trusts and Trustees, 2—Vendor and Purchaser, 2.

REFORMATION OF DEED.

See Mortgage, 11.

REGISTRY LAWS.

See Land Titles Act—Trusts and Trustees, 1.

RELATOR.

See Municipal Elections.

RELEASE.

See Highway, 4—Mortgage, 13.

RELIGIOUS INSTITUTIONS ACT.

See Church.

RENEWAL OF EXECUTION.

See Execution, 4.

RENT.

See Landlord and Tenant—Mortgage, 16.

REPUGNANCY.

See Will, 8.

RES IPSA LOQUITUR.

See Negligence, 2.

RES JUDICATA.

See Assessment and Taxes, 1—Fraud and Misrepresentation, 8—Negligence, 9—Pleading, 7.

RESCISSION.

See Contract, 19, 21, 22, 26—Fraud and Misrepresentation—Principal and Agent, 5—Sale of Goods, 2—Vendor and Purchaser.

RESTITUTION.

See Contract, 26—Fraud and Misrepresentation, 8—Vendor and Purchaser, 7.

RESTRAINT OF MARRIAGE.

See Will, 11.

RESTRICTIVE COVENANT.

See Vendor and Purchaser, 3.

RETURNING OFFICER.

See Canada Temperance Act.

REVENUE.

See Will, 6.

REVIVOR.

See Stay of Proceedings.

REVOCATION.

See Will, 2.

RIPARIAN RIGHTS.

See Water, 1, 2.

RIVER.

See Water, 2.

ROAD.

See Highway.

ROMAN CATHOLIC SEPARATE SCHOOLS.

See Constitutional Law, 3—Schools.

ROYALTIES.

See Contract, 7.

RULES.

(CONSOLIDATED RULES, 1913.)

- 56.—See Judgment, 4—Practice, 1.
 57.—See Judgment, 4.
 112.—See Practice, 1.
 121.—See Pleading, 4.
 145.—See Pleading, 6.
 184.—See Municipal Corporations, 8.
 217.—See Municipal Elections—Parties, 2.
 298.—See Municipal Corporations, 8.
 300.—See Mortgage, 11.
 328.—See Discovery, 2.
 331.—See Discovery, 2.
 369.—See Mortgage, 7.
 370.—See Mortgage, 7.
 373 (*d*), (*g*).—See Costs, 3.
 501 (1).—See Trial, 1.
 502.—See Appeal, 7.
 503.—See Appeal, 7.
 504.—See Appeal, 7.
 507.—See Appeal, 4, 6.
 523.—See Alien Enemy, 3.

- 580.—See Judgment Debtor.
 587.—See Judgment Debtor.
 600.—See Assignments and Preferences, 3—Will, 28.
 601-607.—See Will, 28.
 649.—See Costs, 1.

SALARY.

See Master and Servant, 1.

SALE OF ANIMALS.

See Contract, 23.

SALE OF ASSETS.

See Company, 21.

SALE OF BEER.

See Liquor License Act.

SALE OF BUSINESS.

See Goodwill.

SALE OF GOODS.

1. Action for Price—Written Agreement—Absence of Express Warranty—Caveat Emptor—Sale of Specific Article or Article of Specified Class—Doubtful Description—Parol Evidence to Explain—Right to Inspect and Reject—Provision of Agreement that Property not to Pass till Payment—Evidence Justifying Rejection—Finding of Trial Judge—Appeal. *Butler v. Dunlop*, 8 O.W.N. 162.—APP. DIV.
2. Condition as to Quality—Non-fulfilment—Rescission—Return of Money Paid and Promissory Notes Given—Damages—Return of Goods. *Donovan v. Whitesides*, 8 O.W.N. 483.—SUTHERLAND, J.
3. Conditional Sale of Machine—Contract—Provision for Resale upon Default of Payment, and Application of Proceeds upon Promissory Note Given for Price—Liability of Person Endorsing as Surety—Repossession of Machine by Vendor and Use in Business—Action by Vendor upon Note. *Crane v. Hoffman*, 8 O.W.N. 500.—MIDDLETON, J.
4. Contract—Place of Payment—Breach in Ontario—Jurisdiction of Ontario Court—Right to Reject Goods—Inspection—Delivery to Carrier—Statute of Frauds—Leave to Set up by Amendment—Memorandum in Writing—Correspondence—Acceptance before Repudiation. *M. Slowman & Co. Limited v. Albert J. Brenton Co. Limited*, 8 O.W.N. 477.—SUTHERLAND, J.

5. Contract—Statute of Frauds—Receipt and Acceptance—Defect in Goods—Implied Condition as to Fitness—Right to Inspect and Reject—Shipment from Distant Place—Delivery to Carrier—Place of Inspection—Adequate Cause for Rejection. *Thames Canning Co. v. Eckardt*, 8 O.W.N. 395, 34 O.L.R. 72.—MIDDLETON, J.
6. Perishable Goods—Contract—Delivery to Agent of Purchaser for Carriage—Instructions as to Preservation in Carriage—Duty of Vendors—Goods Rendered Useless by Negligence of Purchaser's Agent—Liability for Loss. *Van Zonnefeld & Co. v. Gilchrist*, 8 O.W.N. 4.—APP. DIV.
7. Warranty—Breach—Chattel Mortgage—Conversion. *Weltz v. Hoy*, 8 O.W.N. 620.—FALCONBRIDGE, C.J.K.B.
- See Company, 24—Contract, 2, 7, 23, 28—Judgment, 3—Principal and Agent, 3.

SALE OF LAND.

- See Company, 4—Contract, 6, 15, 24, 26, 27—Execution, 1, 2—Fraud and Misrepresentation—Mortgage, 8, 10—Principal and Agent, 1, 2, 5—Trusts and Trustees, 1—Vendor and Purchaser.

SATISFACTION.

- See Execution, 1.

SCALE OF COSTS.

- See Costs, 1, 2.

SCHOOL TAXES.

- See Assessment and Taxes, 2.

SCHOOLS.

- Separate Schools—Use of French as Language of Instruction in School not Designated as English-French School—Breach of Regulations of Department of Education. **McDonald v. Lancaster Separate School Trustees*, 8 O.W.N. 598.—APP. DIV.

- See Assessment and Taxes, 2—Constitutional Law, 3.

SCRUTINY.

- See Canada Temperance Act.

SECRET COMMISSION.

- See Fraud and Misrepresentation, 10—Principal and Agent, 3, 5.

SECURITIES.

- See Assignments and Preferences, 2.

SECURITY FOR COSTS.

See Appeal, 4—Costs, 3—Libel, 2.

SEPARATE SCHOOLS.

See Constitutional Law, 3—Schools.

SEPARATION AGREEMENT.

See Infants, 2, 3.

SERVANT.

See Master and Servant.

SERVICE OF WRIT.

See Practice, 2.

SET-OFF.

See Appeal, 7—Contract, 24—Costs, 1, 2—Vendor and Purchaser, 5.

SETTLED ESTATES ACT.

Money in Court—Payment out to Executors to be Applied according to Trusts of Will. *Re Moisse*, 8 O.W.N. 542.—LENNOX, J. (Chrs.)

SETTLEMENT.

See Marriage Settlement—Will, 26.

SETTLEMENT OF ACTION.

See Solicitor, 2.

SHARES AND SHAREHOLDERS.

See Company—Contract, 25—Fraud and Misrepresentation, 3—Will, 31.

SHIP.

See Negligence, 1, 5.

SMOKE PREVENTION.

See Municipal Corporations, 11.

SOLICITOR.

1. Costs—Taxation—Appeal. *Re Solicitor*, 8 O.W.N. 83.—LENNOX, J.
2. Lien for Costs—Pauper Client—Plaintiff in Contested Action—Settlement between Parties without Knowledge of Solicitor—Collusion—Evidence—Onus—Order for Payment of Whole of Solicitor's Costs. *Dicarillo v. McLean*, 8 O.W.N. 27, 279, 33 O.L.R. 231.—MIDDLETON, J. (Chrs.)—APP. DIV.

3. Taxation of Bill of Costs against Client—Appeal—Discretion of Taxing Officer—Extraordinary Charges—Quantum of Fees—Retaining Fees in Actions. *Re Solicitor*, 8 O.W.N. 437.—MIDDLETON, J.

See Contract, 8—Municipal Corporations, 8.

SPECIAL ENDORSEMENT.

See Judgment, 4—Practice, 1.

SPECIFIC PERFORMANCE.

See Fraud and Misrepresentation, 1—Vendor and Purchaser, 3, 6, 9, 10.

STATED CASE.

See Criminal Law, 3.

STATUTE OF FRAUDS.

Moneys Advanced to Company—Oral Promise of President of Company to Repay—Contract of Suretyship—Evidence. **Brown v. Coleman Development Co.*, 8 O.W.N. 535.—MIDDLETON, J.

See Contract, 1, 14, 15, 20—Landlord and Tenant, 3—Pleading, 2—Sale of Goods, 4, 5—Vendor and Purchaser, 9.

STATUTE OF LIMITATIONS.

See Bills and Notes, 4—Boundaries—Easement, 2—Execution, 4—Fraud and Misrepresentation, 5—Limitation of Actions—Railway, 7—Title to Land, 1—Water, 2.

STATUTES.

30 & 31 Vict. ch. 3, sec. 92 (2) (Imp.) (British North America Act)—See CONSTITUTIONAL LAW, 2.

30 & 31 Vict. ch. 3, secs. 93, 133 (Imp.)—See CONSTITUTIONAL LAW, 3.

45 Vict. ch. 19, sec. 2 (O.) (Act respecting Companies for Supplying Electricity for the Purposes of Light, Heat, and Power)—See CONTRACT, 18.

R.S.O. 1887 ch. 175, secs. 2 (b), 3 (Act respecting Cemetery Companies)—See COMPANY, 4.

R.S.O. 1897 ch. 224, sec. 156 (Assessment Act)—See TITLE TO LAND, 1.

R.S.O. 1897 ch. 285, secs. 3, 8 (Ditches and Watercourses Act)—See DITCHES AND WATERCOURSES ACT.

- 3 Edw. VII. ch. 19, secs. 601, 607, 629 (1), 637 (1), 640 (11) (O.) (Municipal Act)—See HIGHWAY, 1.
- R.S.C. 1906 ch. 37, secs. 19, 204 (Railway Act)—See RAILWAY, 1.
R.S.C. 1906 ch. 37, sec. 241—See RAILWAY, 7.
R.S.C. 1906 ch. 37, sec. 276—See RAILWAY, 5.
R.S.C. 1906 ch. 37, sec. 279—See RAILWAY, 6.
R.S.C. 1906 ch. 77, sec. 19 (Naturalisation Act)—See ALIEN ENEMY, 4.
- R.S.C. 1906 ch. 115, sec. 4 (Navigable Waters' Protection Act)—See WATER, 1.
- R.S.C. 1906 ch. 115, sec. 14—See NEGLIGENCE, 1.
R.S.C. 1906 ch. 119 (Bills of Exchange Act)—See BILLS AND NOTES, 1.
- R.S.C. 1906 ch. 144 (Winding-up Act)—See COMPANY, 21, 22, 23.
R.S.C. 1906 ch. 144, secs. 5, 23, 133—See COMPANY, 18.
R.S.C. 1906 ch. 144, sec. 11 (*d*), (*e*)—See COMPANY, 20.
R.S.C. 1906 ch. 144, sec. 22—See COMPANY, 14.
R.S.C. 1906 ch. 146, secs. 72, 74 (Criminal Code)—See CRIMINAL LAW, 7.
- R.S.C. 1906 ch. 146, secs. 216, 872, 873, 898—See CRIMINAL LAW, 6.
- R.S.C. 1906 ch. 146, secs. 295, 733, 734, 785, 791, 792—See ASSAULT.
- R.S.C. 1906 ch. 146, secs. 405 A., 414—See CRIMINAL LAW, 5.
R.S.C. 1906 ch. 152, secs. 69, 105 (Canada Temperance Act)—See CANADA TEMPERANCE ACT.
- 6 Edw. VII. ch. 27, sec. 3 (3) (O.) (Act respecting Prospectuses issued by Companies)—See COMPANY, 9.
- 7 Edw. VII. ch. 16, sec. 19 (O.) (Highway Improvement Act)—See HIGHWAY, 8.
- 7 Edw. VII. ch. 34, secs. 80, 81, 87, 89 (O.) (Companies Act)—See COMPANY, 5.
- 7 & 8 Edw. VII. ch. 40, sec. 29 (D.) (Juvenile Delinquents Act)—See CRIMINAL LAW, 4.
- 8 Edw. VII. ch. 21, sec. 65 (O.) (Mining Act)—See VENDOR AND PURCHASER, 12.
- 8 Edw. VII. ch. 118, sec. 8 (O.) (Town of Toronto Junction)—See COVENANT.

- 9 Edw. VII. ch. 37, sec. 11 (*d*) (O.) (Lunacy Act)—See LUNATIC, 2.
- 1 Geo. V. ch. 6 (O.) (Bed of Navigable Waters Act)—See WATER, 2.
- 1 Geo. V. ch. 42, sec. 44 (O.) (Surveys Act)—See HIGHWAY, 1.
- 2 Geo. V. ch. 31, sec. 13 (O.) (Companies Act)—See COMPANY, 4.
- 2 Geo. V. ch. 48, sec. 19 (O.) (Motor Vehicles Act)—See MOTOR VEHICLES ACT.
- 3 & 4 Geo. V. ch. 13, sec. 16 (D.) (Amending Criminal Code)—See CRIMINAL LAW, 5.
- 3 & 4 Geo. V. ch. 60 (O.) (Factory Shop and Office Building Act)—See FACTORY SHOP AND OFFICE BUILDING ACT.
- R.S.O. 1914 ch. 1, sec. 27 (Interpretation Act)—See COMPANY, 5.
- R.S.O. 1914 ch. 6, sec. 24 (Voters' Lists Act)—See MUNICIPAL CORPORATIONS, 7.
- R.S.O. 1914 ch. 27, sec. 4 (3) (Corporations Tax Act)—See CONSTITUTIONAL LAW, 2.
- R.S.O. 1914 ch. 32, secs. 34, 118 (Mining Act)—See MINES AND MINERALS, 2.
- R.S.O. 1914 ch. 32, sec. 164—See MINES AND MINERALS, 1, 3.
- R.S.O. 1914 ch. 54 (Privy Council Appeals Act)—See MORTGAGE, 7.
- R.S.O. 1914 ch. 56, sec. 16 (*b*) (Judicature Act)—See CONSTITUTIONAL LAW, 1—PLEADING, 4.
- R.S.O. 1914 ch. 56, sec. 32—See CONSTITUTIONAL LAW, 1—MUNICIPAL CORPORATIONS, 8.
- R.S.O. 1914 ch. 56, sec. 63 (2)—See LIQUOR LICENSE ACT, 1.
- R.S.O. 1914 ch. 56, sec. 74—See COSTS, 1.
- R.S.O. 1914 ch. 59, sec. 40 (2) (County Courts Act)—See PRACTICE, 1—PRINCIPAL AND AGENT, 7.
- R.S.O. 1914 ch. 62, sec. 34 (Surrogate Courts Act)—See SURROGATE COURTS.
- R.S.O. 1914 ch. 62, sec. 71 (3)—See PLEADING, 4.
- R.S.O. 1914 ch. 63, sec. 106 (Division Courts Act)—See DIVISION COURTS, 1.
- R.S.O. 1914 ch. 68, sec. 10 (Lunacy Act)—See LUNATIC, 2.
- R.S.O. 1914 ch. 71, sec. 12 (Libel and Slander Act)—See APPEAL, 4—LIBEL, 2.

- R.S.O. 1914 ch. 74 (Settled Estates Act)—See SETTLED ESTATES ACT.
- R.S.O. 1914 ch. 75 (Limitations Act)—See EXECUTION, 4.
- R.S.O. 1914 ch. 75, secs. 6 (6), (7), 23—See LIMITATION OF ACTIONS.
- R.S.O. 1914 ch. 75, sec. 35—See WATER, 2.
- R.S.O. 1914 ch. 75, sec. 37—See BOUNDARIES.
- R.S.O. 1914 ch. 76, sec. 10 (Evidence Act)—See RAILWAY, 7.
- R.S.O. 1914 ch. 79, sec. 4 (Judges' Orders Enforcement Act)—See MUNICIPAL ELECTIONS.
- R.S.O. 1914 ch. 81 (Creditors Relief Act)—See MORTGAGE, 10.
- R.S.O. 1914 ch. 84, sec. 7 (Habeas Corpus Act)—See LUNATIC, 1.
- R.S.O. 1914 ch. 119, sec. 32 (Devolution of Estates Act)—See PLEADING, 4.
- R.S.O. 1914 ch. 120, sec. 17 (Wills Act)—See WILL, 12.
- R.S.O. 1914 ch. 120, sec. 37—See WILL, 23.
- R.S.O. 1914 ch. 121 (Trustee Act)—See CHURCH.
- R.S.O. 1914 ch. 121, sec. 38 (2)—See EXECUTORS AND ADMINISTRATORS.
- R.S.O. 1914 ch. 121, sec. 66—See ASSIGNMENTS AND PREFERENCES, 3.
- R.S.O. 1914 ch. 126, sec. 138, Rules 27, 28, 29, 30, 33 (Land Titles Act)—See LAND TITLES ACT.
- R.S.O. 1914 ch. 130, sec. 4 (Rivers and Streams Act)—See WATER, 3.
- R.S.O. 1914 ch. 134, sec. 5 (1) (Assignments and Preferences Act)—See ASSIGNMENTS AND PREFERENCES, 4.
- R.S.O. 1914 ch. 134, sec. 25 (5)—See ASSIGNMENTS AND PREFERENCES, 2.
- R.S.O. 1914 ch. 134, secs. 25, 26, 27—See ASSIGNMENTS AND PREFERENCES, 1.
- R.S.O. 1914 ch. 140, sec. 2 (c) (Mechanics and Wage-Earners Lien Act)—See MECHANICS' LIENS, 4.
- R.S.O. 1914 ch. 140, sec. 6—See MECHANICS' LIENS, 3.
- R.S.O. 1914 ch. 140, sec. 49—See MECHANICS' LIENS, 2.
- R.S.O. 1914 ch. 146 (Workmen's Compensation for Injuries Act)—See MASTER AND SERVANT, 4.

- R.S.O. 1914 ch. 148, sec. 36 (Marriage Act)—See CONSTITUTIONAL LAW, 1.
- R.S.O. 1914 ch. 151 (Fatal Accidents Act)—See ALIEN ENEMY, 1.
- R.S.O. 1914 ch. 155, sec. 38 (Landlord and Tenant Act)—See COMPANY, 18.
- R.S.O. 1914 ch. 175, sec. 4 (Ontario Money-Lenders Act)—See MORTGAGE, 9.
- R.S.O. 1914 ch. 178 (Companies Act)—See COMPANY, 23.
- R.S.O. 1914 ch. 178, secs. 23, 93—See COMPANY, 5.
- R.S.O. 1914 ch. 178, sec. 98—See COMPANY, 13.
- R.S.O. 1914 ch. 178, sec. 126—See COMPANY, 20.
- R.S.O. 1914 ch. 183, secs. 170, 171 (9), 178 (7) (Insurance Act)—See INSURANCE, 6.
- R.S.O. 1914 ch. 183, secs. 171 (3), 178 (2), 179 (1)—See INSURANCE, 3.
- R.S.O. 1914 ch. 183, sec. 178 (7)—See INSURANCE, 5.
- R.S.O. 1914 ch. 183, sec. 193—See INSURANCE, 10.
- R.S.O. 1914 ch. 186, secs. 7, 8, 16 (1), (2), 18 (Religious Institutions Act)—See CHURCH.
- R.S.O. 1914 ch. 186, sec. 48 (3) (Ontario Railway and Municipal Board Act)—See ASSESSMENT AND TAXES, 1.
- R.S.O. 1914 ch. 192, sec. 150 (Municipal Act)—See MUNICIPAL CORPORATIONS, 7.
- R.S.O. 1914 ch. 192, secs. 161, 162, 163—See MUNICIPAL ELECTIONS.
- R.S.O. 1914 ch. 192, secs. 249, 250, 254—See MUNICIPAL CORPORATIONS, 1.
- R.S.O. 1914 ch. 192, sec. 259—See MUNICIPAL CORPORATIONS, 6.
- R.S.O. 1914 ch. 192, sec. 286—See MUNICIPAL CORPORATIONS, 8.
- R.S.O. 1914 ch. 192, secs. 344, 347—See MUNICIPAL CORPORATIONS, 5.
- R.S.O. 1914 ch. 192, sec. 400 (45)—See MUNICIPAL CORPORATIONS, 11.
- R.S.O. 1914 ch. 192, sec. 406 (10)—See MUNICIPAL CORPORATIONS, 10.
- R.S.O. 1914 ch. 192, sec. 420, cl. 7 (c)—See MUNICIPAL CORPORATIONS, 12.
- R.S.O. 1914 ch. 192, sec. 422 (5)—See MUNICIPAL CORPORATIONS, 2.

- R.S.O. 1914 ch. 192, sec. 450 (3)—See HIGHWAY, 5.
 R.S.O. 1914 ch. 192, sec. 460 (2)—See RAILWAY, 7.
 R.S.O. 1914 ch. 193, sec. 39 (2) (Local Improvement Act)—See ASSESSMENT AND TAXES, 4.
 R.S.O. 1914 ch. 195, sec. 47 (3) (Assessment Act)—See ASSESSMENT AND TAXES, 3.
 R.S.O. 1914 ch. 195, secs. 57, 72—See ASSESSMENT AND TAXES, 4.
 R.S.O. 1914 ch. 195, sec. 80 (6), (7)—See ASSESSMENT AND TAXES, 1.
 R.S.O. 1914 ch. 195, sec. 178—See COVENANT.
 R.S.O. 1914 ch. 198, sec. 80 (Municipal Drainage Act)—See ARBITRATION AND AWARD, 3.
 R.S.O. 1914 ch. 203, sec. 17 (Public Parks Act)—See MUNICIPAL CORPORATIONS, 5.
 R.S.O. 1914 ch. 215, sec. 16 (Liquor License Act)—See MUNICIPAL CORPORATIONS, 6.
 R.S.O. 1914 ch. 215, sec. 102 (2)—See LIQUOR LICENSE ACT, 1.
 R.S.O. 1914 ch. 215, sec. 137 (2)—See MUNICIPAL CORPORATIONS, 7.
 R.S.O. 1914 ch. 215, sec. 155—See LIQUOR LICENSE ACT, 2.
 R.S.O. 1914 ch. 228, sec. 6 (Building Trades Protection Act)—See MASTER AND SERVANT, 3.
 R.S.O. 1914 ch. 231 (Children's Protection Act)—See INFANTS, 1.
 4 Geo. V. ch. 36, sec. 3 (O.) (Amending Motor Vehicles Act)—See MOTOR VEHICLES ACT.
 5 Geo. V. ch. 22 (O.) (Mortgagors and Purchasers Relief Act)—See EXECUTION, 2—MORTGAGE, 1, 2, 3, 4, 5, 7, 12, 14, 16, 18—PRACTICE, 2.
 5 Geo. V. ch. 45 (O.) (Validating Regulations of Department of Education)—See CONSTITUTIONAL LAW, 3.

STATUTORY AUTHORITY.

See Railway, 6.

STATUTORY OBLIGATIONS.

See Factory Shop and Office Building Act—Mines and Minerals, 1, 3.

STAY OF PROCEEDINGS.

Delay in Prosecution of Reference and in Bringing on Pending

Interlocutory Motions for Determination—Death of Plaintiff—Failure of Executor to Revive Action—Locus Pœnitentiæ. *Hull v. Allen*, 8 O.W.N. 577.—SUTHERLAND, J. (Chrs.)

See Costs, 3—Execution, 2—Mortgage, 1, 2, 6, 7—Practice, 2.

STIFLING PROSECUTION.

See Bills and Notes, 2.

STREET.

See Highway.

STREET RAILWAY.

Death of Person Struck by Car in Attempting to Cross Tracks—Negligence—Contributory Negligence—Ultimate Negligence—Findings of Jury—Appeal. *Hayes v. Ottawa Electric R.W. Co.*, 8 O.W.N. 407.—APP. DIV.

See Negligence, 2, 3, 7, 10—Nuisance, 3—Railway, 4.

SUBWAY.

See Railway, 7.

SUCCESSION DUTY.

See Will, 6.

SUMMARY APPLICATION.

See Assignments and Preferences, 3.

SUMMARY JUDGMENT.

See Judgment, 3, 4.

SUNDAY.

See Nuisance, 4.

SUPREME COURT OF ONTARIO.

See Canada Temperance Act—Constitutional Law.

SURETY.

See Mortgage, 13—Sale of Goods, 3—Statute of Frauds.

SURRENDER VALUE.

See Insurance, 7.

SURROGATE COURTS.

Order of Judge on Passing Accounts Fixing Compensation of Executors—Appeal—Forum—Surrogate Courts Act, sec. 34. *Re Henderson*, 8 O.W.N. 31.—MIDDLETON, J.

See Pleading, 4.

SURVEY.

See Highway, 1, 3.

SURVIVORSHIP.

See Insurance, 4, 6—Partnership, 2—Will, 30.

SYNDICATE.

See Partnership, 5.

TAX SALE.

See Contract, 14—Covenant—Title to Land, 1.

TAXATION OF COSTS.

See Costs, 2, 4—Railway, 1—Solicitor, 1, 3.

TAXES.

See Assessment and Taxes—Constitutional Law, 2—Landlord and Tenant, 4—Limitation of Actions.

TAXING OFFICER.

See Solicitor, 3.

TENANT.

See Landlord and Tenant.

TENANT AT WILL.

See Limitation of Actions.

TENANT FOR LIFE.

See Will, 10.

TENANTS IN COMMON.

See Will, 18.

TENDER.

See Contract, 15.

THIRD PARTIES.

See Carriers, 1—Fraud and Misrepresentation, 8—Principal and Agent, 4.

TIME.

See Appeal, 2—Assessment and Taxes, 4—Bills and Notes, 4—Land Titles Act—Mechanics' Liens, 2, 3—Mortgage, 13—Municipal Corporations, 8—Pleading, 4—Receiver, 2.

TITLE TO LAND.

1. Action of Ejectment—Paper Title—Possession by one of the Heirs at law of Patentee from Crown—Tax Sale—Invalidity—Distress on Premises—Sufficiency—Assessment Act, R.S.O. 1897 ch. 224, sec. 156—Title by Possession—Limitations Act. *McAllister v. Defoe*, 8 O.W.N. 175, 405.—FALCONBRIDGE, C.J.K.B.—APP. DIV.
2. Conveyance of Equitable Interest to Trustee for Certain Creditors—Prior Unregistered Mortgage—Notice—Validity against

Trustee for Creditors—Prior Lien of Mortgagee. *Re Wilson Estate*, 8 O.W.N. 229.—MIDDLETON, J.

See Costs, 1—Covenant—Easement, 2—Limitation of Actions—Mortgage, 11—Vendor and Purchaser—Will, 2.

TITLE TO SHARES.

See Company, 11, 12.

TORT.

See Division Courts, 3.

TRADE AGREEMENT.

See Contract, 28.

TRADE MARK.

Infringement—Invented Word—Initials of Company's Name—Use of Like Combinations by Others in same Business—Validity of Registration—Right to Impeach—Confusion from Similarity of Names—Passing-off—Evidence. *J. Edward Ogden Co. Limited v. Canadian Expansion Bolt Co. Limited*, 8 O.W.N. 374, 33 O.L.R. 589.—BOYD, C.

TRADE NAME.

See Pleading, 6.

TRANSFER OF SHARES.

See Company, 10.

TRANSIENT TRADERS.

See Municipal Corporations, 12.

TREASON.

See Criminal Law, 2, 7.

TRESPASS.

Cattle—Using Dog to Drive out—Necessity for—Injury to Animal—Cause of—New Trial. *Murray v. Muir*, 8 O.W.N. 222.—APP. DIV.

See Landlord and Tenant, 1—Master and Servant, 4—Motor Vehicles Act.

TRIAL.

1. Findings of Jury—Negligence—Contributory Negligence—Injury to Servant of Railway Company—Conflicting Findings—New Trial—Rule 501 (1). *Ball v. Wabash R.R. Co.*, 8 O.W.N. 544.—SUTHERLAND, J.

2. Jury—Address of Counsel for Plaintiff—Inflammatory Language—Verdict for Plaintiff—Motion by Defendants for New

Trial—Objection not Taken at Trial—Waiver—Duty of Trial Judge—Costs. *Dale v. Toronto R.W. Co.*, 8 O.W.N. 443, 34 O.L.R. 104.—APP. DIV.

See Criminal Law, 4—Division Courts, 1, 3—Gift—Jury Notice—Mines and Minerals, 1—Pleading, 1, 3, 5.

TRUSTS AND TRUSTEES.

1. Conveyance of Land by Deed Absolute in Form but as Security for Debt—Status of Grantee—Trustee without Power of Sale—Mortgage—Sale of Land by Trustee without Consent of Mortgagor—Right of Purchasers—Unregistered Agreement—Executory Contract not Completed by Conveyance—Superior Equity of Mortgagor—Right to Redeem—Payment of Debt—Account—Costs—Claim of Purchasers against Mortgagee—Damages—Loss of Profits. *Hetherington v. Sinclair*, 8 O.W.N. 383, 34 O.L.R. 61.—MIDDLETON, J.
2. Crown Grant of Land in Trust—"Glebe for Use and Benefit of Ministers and Congregations in Town"—Construction and Meaning—Distribution and Apportionment of Income of Trust Fund—Principle of Equality. *Re Chatham Glebe Trust*, 8 O.W.N. 169.—SUTHERLAND, J.
3. Declaration with Regard to Land—Notice—Account—Winding-up—Reference—Costs. *Loveland v. Sale*, 8 O.W.N. 576.—SUTHERLAND, J.

See Alien Enemy, 3—Assignments and Preferences, 3, 5—Church—Company, 4, 5, 8, 12—Contract, 14—Executors and Administrators—Fraudulent Conveyance—Insurance, 3—Receiver, 2—Title to Land, 2—Will, 11, 14, 18, 22, 23, 26, 30, 31.

ULTIMATE NEGLIGENCE.

See Street Railway.

UNDERTAKING.

See Contempt of Court.

UNDISCLOSED PRINCIPAL.

See Principal and Agent, 7.

UNDUE INFLUENCE.

See Deed, 2—Husband and Wife, 2—Mortgage, 11.

USE AND OCCUPATION.

See Arbitration and Award, 2—Vendor and Purchaser, 2.

VALUATION.

See Assessment and Taxes, 1.

VALUING SECURITY.

See Assignments and Preferences, 2.

VENDOR AND PURCHASER.

1. Agreement for Sale of Land—Absence of Title in Vendor—
—Option in Lease—Acceptance—Knowledge of Purchaser—
Failure of Vendor to Repudiate Option—Nominal Damages
—Expenses of Searching Title—Costs. *McCune v. Good*,
8 O.W.N. 367, 34 O.L.R. 51.—APP. DIV.
2. Agreement for Sale of Land—Action by Vendor for Purchase-
money—Misrepresentations of Vendor—Evidence—Findings
of Fact of Trial Judge—Right of Purchaser to Rescind—
Notice to Vendor—Finding against Election to Affirm—
Claim for Value of Chattels—Demand for Return—Counter-
claim—Damages—Use and Occupation—Reference—Costs.
Wallace v. Gummerson, 8 O.W.N. 35.—CLUTE, J.
3. Agreement for Sale of Land—Authority of Agent of Purchaser
—Joinder of Agent as Party Defendant—Action for Specific
Performance—Land Subject to Restrictive Covenant as to
Building and Occupation—Knowledge of Agent—Convey-
ance to Purchaser to Contain Restrictive Covenant—Costs.
Soboloff v. Reeder, 8 O.W.N. 40.—LENNOX, J.
4. Agreement for Sale of Land—Construction—Assumption of
Existing Mortgage—Discharge of Existing Mortgage and
Creation of New Mortgage for Larger Amount at Increased
Rate of Interest—Allowance—Adjustment—Costs. *Re Os-
terhout and Cada*, 8 O.W.N. 30.—MIDDLETON, J.
5. Agreement for Sale of Land—Incumbrance—Oral Agreement
in Respect of—Onus—Failure of Proof—Discharge of Incum-
brance—Payment of Amount to Purchaser—Counterclaim—
Set-off. *Slatky v. Kaufman*, 8 O.W.N. 234.—BRITTON, J.
6. Agreement for Sale of Land—Mistake as to Quantity of Land
—Parties not ad Idem—Return of Purchase-money Paid or
Specific Performance with Abatement of Price—Election of
Vendor—Costs. *Allen v. Crowe*, 8 O.W.N. 454.—MIDDLE-
TON, J.
7. Agreement for Sale of Land—Rescission—Purchaser's Damages
—Costs of Investigating Title—Loss of Bargain—Vendor's

Damages by Reason of Purchaser's Dealings with Land—Destruction of Buildings—Inability of Purchasers to Make Complete Restitution—Provisions of Contract—Consent to Alteration of Property—Measure of Damages—Profit from Buildings. *McNiven v. Pigott*, 8 O.W.N. 107, 33 O.L.R. 335.—APP. DIV.

8. Agreement for Sale of Land—Title—Application under Vendors and Purchasers Act—Parties. *Re Godson and Casselman*, 8 O.W.N. 480.—KELLY, J.
 9. Agreement for Sale of Land—Uncertainty as to Land Intended to be Sold—Description—Boundaries—Evidence of Identity—Small Element of Uncertainty—Disregard by Court—Statute of Frauds—Authority of Agent—Ratification—Specific Performance. *Donohue v. McCallum*, 8 O.W.N. 199.—APP. DIV.
 10. Agreement for Sale of Land to Railway Company—Undivided Shares in Portion of Land Owned by Children of Vendor—Refusal of Children to Convey—Payment of Purchase-money to Solicitors for Vendor—Lien of Purchasers for Amount Necessary to Get in Title of Children—Specific Performance—Abatement of Price—Expropriation—Costs. *Grand Trunk R.W. Co. v. Donnelly*, 8 O.W.N. 231.—MIDDLETON, J.
 11. Exchange of Lands—Retention of Money to Pay off Mortgages—Right of Covenantor to be Indemnified against Obligations. *Campbell v. Douglas*, 8 O.W.N. 501.—LENNOX, J.
 12. Sale of Mining Claims—Terms of Agreement—Imperfect Title—Guaranty of Title—Failure to Make Title—Recovery of Purchase-money—Evidence—Jurisdiction of Mining Commissioner—Mining Act of Ontario, 8 Edw. VII. ch. 21, sec. 65—Parties. *Curry v. Mattair*, 8 O.W.N. 148.—APP. DIV.
- See Contract, 14, 15—Covenant—Execution, 1, 2—Fraud and Misrepresentation, 1, 6, 7, 8, 9, 10, 11—Mortgage, 5, 6—Principal and Agent, 1, 2, 5—Will, 2, 9, 10.

VERDICT.

See Criminal Law, 2, 3, 7—Trial, 2.

VESTED REMAINDER.

See Marriage Settlement.

VOLUNTARY ASSUMPTION OF RISK.

See Negligence, 7.

VOTING.

See Canada Temperance Act.

WAGES.

See Company, 13—Division Courts, 2—Parent and Child.

WAIVER.

See Assessment and Taxes, 4—Bills and Notes, 6—Company, 2—
Division Courts, 3—Highway, 2—Insurance, 7—Municipal
Corporations, 8—Trial, 2.

WAR.

See Alien Enemy.

WARRANTY.

See Sale of Goods, 1, 7.

WATER.

1. Obstruction Placed on Waters of Navigable Lake by Lessee of Water Lots—Right of Riparian Owner to Access to Shore—Interference with—Prospective Use of Shore—Lease from Crown of Lands Covered by Water—Reservation of Rights of Navigation and Access from Shore—Navigable Waters' Protection Act, R.S.C. 1906 ch. 115, sec. 4—Illegal Obstruction—Interference with Navigation and Right of Access—Right of Action—Special Damage—Order in Council—Compliance with—Appeal—Costs. *Baldwin v. Chaplin*, 8 O.W.N. 349, 34 O.L.R. 1.—APP. DIV.
2. Rideau River—Navigable or Unnavigable—Riparian Rights—Assertion of Right of Access in Winter to Cut Ice—Possession of Municipal Corporation—Limitations Act, R.S.O. 1914 ch. 75, sec. 35—Bed of Navigable Waters Act, 1 Geo. V. ch. 6 (O.)—Acquiescence—Dump-made Lands—Accretion. **Twin City Ice Co. v. City of Ottawa*, 8 O.W.N. 607.—MEREDITH, C.J.C.P.
3. Rights of Lumbermen Floating Logs in River—Injury to Dam—"Unnecessary Damage"—Rivers and Streams Act, R.S.O. 1914 ch. 130, sec. 4—Negligence. **Lowery and Goring v. Booth*, 8 O.W.N. 529.—MIDDLETON, J.

See Easement, 1—Negligence, 1.

WAY.

See Highway—Landlord and Tenant, 1—Negligence, 9.

WILL.

1. Admission to Probate—Subsequent Discovery of Pretended
57—8 o.w.n.

- Codicils—Rejection by Executors as not Genuine—Duty of Executors. *Re Bilton*, 8 O.W.N. 553.—MIDDLETON, J.
2. Attempted Revocation—Invalidity—Title to Land—Vendor and Purchaser. **Re Mulholland and Van den Berg*, 8 O.W.N. 573.—SUTHERLAND, J.
- ~~3. Construction—Annuities—Payment out of Income or Capital—Accumulated Surplus Income—Priorities. *Re Mackay*, 8 O.W.N. 263.—MIDDLETON, J.~~
4. Construction—Bequest of Mortgage to Daughter “for her sole Use during her Lifetime”—Bequest to Others after her Decease—Right of Daughter to Expend Corpus as well as Interest—Parties—Costs. *Matte v. Matte*, 8 O.W.N. 605.—MEREDITH, C.J.C.P.
5. Construction—Bequest to Nephews and Nieces Living at Decease of Testator—Exclusion of Children of Nephews. *Re Morton*, 8 O.W.N. 521.—LENNOX, J.
6. Construction—Bequests to Individuals—Succession Duty to be Paid by “Estate”—Insufficiency of Estate—Bequest of Rentals of Real Estate—Payment of Debts, Testamentary Expenses, and Costs of Administration—Charge on Realty and Personalty pro Rata—Payment of Succession Duty by Legatee. *Re Bilton*, 8 O.W.N. 323.—MIDDLETON, J.
7. Construction—Devise—Estate—Bequest of Personal Property—Absolute Use during Lifetime of Legatee—Disposition of Remainder (if any)—“Issue.” *Re McLaughlin*, 8 O.W.N. 277.—SUTHERLAND, J.
8. Construction—Devise—Gift over—Repugnancy—Estate in Fee Simple. *Re Cathcart*, 8 O.W.N. 572.—SUTHERLAND, J.
9. Construction—Devise—“Heirs”—Estate Tail—Vendor and Purchaser. *Re Finlay and Darling*, 8 O.W.N. 193.—MIDDLETON, J.
10. Construction—Devise—Life Estate with Power of Sale and Right to Encroach upon Corpus—Vendor and Purchaser—Right of Life-tenant to Convey. *Re Gowinlock*, 8 O.W.N. 561.—MIDDLETON, J.
11. Construction—Devise of Farm to Daughters—Provision in Event of Marriage—Restraint of Marriage—Devise in Fee Subject to Conditions Subsequent—Trustees—Power to Sell and Convey Land. *Re McBain*, 8 O.W.N. 330.—MIDDLETON, J.

12. Construction—Devise to Children on Remarriage of Widow—One Child Subscribing Will as Witness—Wills Act, R.S.O. 1914 ch. 120, sec. 17—Devise to Class—Failure of Gift to one of Class—Partition among Remaining Children—Costs—Allowance for Reduction of Mortgage by Widow before Remarriage. *Depatie v. Bedard*, 8 O.W.N. 423.—BOYD, C.
13. Construction—Devises to Sons—Misdescription of Lands—General Intention—Falsa Demonstratio—Lands Actually Owned by Testator Passing to devisees—Residuary Clause—Annuity to Widow—Charge on Lands Devised—Bequests in Lieu of Dower. *Re Devins*, 8 O.W.N. 540.—SUTHERLAND, J.
14. Construction—Direction to Divide Proceeds of Sale of Property among Wife and Children—Postponement of Realisation—Discretion of Trustees—“Best for my Estate”—Death of Wife before Realisation—Interest Vested, though Enjoyment Postponed. *Re Ward*, 8 O.W.N. 76, 33 O.L.R. 262.—BOYD, C.
15. Construction—Direction to Executors to Sell Farm and Divide Proceeds—Sale of Farm by Testator after Execution of Will—Effect of Codicil—Mortgage Standing in Place of Farm—Acquisition of other Real Estate not Mentioned in Will—Intestacy. *Re Graham*, 8 O.W.N. 497.—CLUTE, J.
16. Construction—Division of Estate—Period for—Vested Shares. *Re Ward*, 8 O.W.N. 520.—LENNOX, J.
17. Construction—Division of Estate after Death of Widow “between” Adopted Daughter and Children of two Sisters—Adopted Daughter Entitled to one Half—Children of Sisters to Share Remaining Half per Capita—Period of Vesting—Absence of Residuary Clause—Adopted Daughter Dying after Testator but before Widow—Avoidance of Lapse—Children Taking Share of Parent. *Re Puley*, 8 O.W.N. 42, 306.—BRITTON, J.—APP. DIV.
18. Construction—Division of Estate among Named Brothers and Sisters by one Brother “according to his Best Judgment”—Trust—Imperative Direction—Discretion—Limited Power—Division Based upon Equality—Tenancy in Common—Predecease of one Sister—Intestacy as to her Share—Ascertainment of Next of Kin of Testator at his Death—Sister Surviving Testator but Dying before Division—Vested Share Passing to Representatives. *Re Hislop*, 8 O.W.N. 53.—APP. DIV.

19. Construction—Estate for Life or Estate Tail—Rule in Shelley's Case—"Issue." *Re Russell*, 8 O.W.N. 248.—LENNOX, J.
20. Construction—Gift of Income to Wife for Life or Widowhood "for the Maintenance of herself and our Children"—Equal Division of Corpus among Children upon Death or Remarriage of Wife—Provision for Advancement to Sons—Obligation of Wife to Maintain Children—Forisfiliation or Marriage—Discretion—Postponement of Time for Division of Real Estate—Conversion of Real Estate by Trustees—Interest upon Sums Advanced—Security—"Loan." *Re Singer*, 8 O.W.N. 336, 33 O.L.R. 602.—APP. DIV.
21. Construction—Gift to Children of Deceased Relatives—Grandchildren and Stepchildren not Included—Intestacy. *Re Morrow*, 8 O.W.N. 246.—MIDDLETON, J.
22. Construction—Incomplete Gift—Implication—Gift over in one Event—Trust—Death of Trustee in Lifetime of Testatrix—Residuary Gift—Death of Donee of Part—Intestacy—Validity of Gift of Remaining Part to Class—Costs. *Re Cotter*, 8 O.W.N. 46, 354, 34 O.L.R. 24.—LENNOX, J.—APP. DIV.
23. Construction—Lapsed Legacies—Predecease of Legatees—Residuary Clause—Trust—Wills Act, sec. 37. *Re Stewart*, 8 O.W.N. 16.—LENNOX, J.
24. Construction—Legacies—Insufficiency of Personal Estate to Pay—Direction that Real Estate not to be Encroached upon—Proportionate Abatement of Pecuniary Legacies—Unnecessary Motion—Costs. *Re Robins*, 8 O.W.N. 18.—LENNOX, J.
25. Construction—Legacy—Postponement of Payment—Accumulations of Income. *Re Smith*, 8 O.W.N. 543.—LENNOX, J.
26. Construction—Legacy to Daughter—Settlement in Trust. *Re Dixon*, 8 O.W.N. 294, 405.—MIDDLETON, J.—APP. DIV.
27. Construction—Payment of Quarter of Annual Income of Estate to Widow Quarterly—Meaning of "Quarterly." *Re Short*, 8 O.W.N. 190.—SUTHERLAND, J.
28. Construction—Provision for Son in Case of Need—Application for Payment of Allowance—Jurisdiction of Court—Rules 600-607—Order Directing Inquiry into Circumstances of Applicant. *Re O'Meara*, 8 O.W.N. 441.—BRITTON, J.

29. Construction—Residuary Bequest—Income or Corpus—"The same"—"Blood Relatives"—Next of Kin. *Re Murray*, 8 O.W.N. 463.—MEREDITH, C.J.C.P.
30. Construction—Trust—Beneficial Estate for Life Given to Trustees *nominatim*—Survivorship—General Power of Appointment over Corpus—Right of Donees of Power to Appear to themselves—"Or otherwise." *Meagher v. Meagher*, 8 O.W.N. 357, 34 O.L.R. 33.—APP. DIV.
31. Construction—Trust for Investment—"Interest-bearing Securities"—Company-shares—Mortgages—Interest or Income. *Re Abbott*, 8 O.W.N. 562.—LATCHFORD, J.

See Insurance, 3—Settled Estates Act.

WINDING-UP.

See Company, 14-24—Contract, 24—Division Courts, 2.

WITNESSES.

See Evidence, 2—Railway, 7—Will, 12.

WORDS.

- "Access"—See INFANTS, 2.
- "According to his Best Judgment"—See WILL, 18.
- "Account of Lumber to be Shipped"—See BILLS AND NOTES, 5.
- "Assisting"—See CRIMINAL LAW, 7.
- "At Factory Cost"—See CONTRACT, 7.
- "Available"—See INSURANCE, 7.
- "Best for my Estate"—See WILL, 14.
- "Between"—See WILL, 17.
- "Blood Relatives"—See WILL, 29.
- "Cash Surrender Value"—See INSURANCE, 7.
- "Direct Taxation within the Province"—See CONSTITUTIONAL LAW, 2.
- "Estate"—See WILL, 6.
- "Extensions"—See CONTRACT, 9.
- "Final in its Nature"—See PRINCIPAL AND AGENT, 7.
- "Flue, Stack, or Chimney"—See MUNICIPAL CORPORATIONS, 11.
- "For her Sole Use during her Lifetime"—See WILL, 4.
- "For the Maintenance of herself and our Children"—See WILL, 20.
- "Franchise, Right, or Privilege"—See CONTRACT, 18.
- "Glebe for Use and Benefit of Ministers and Congregations in Town"—See TRUSTS AND TRUSTEES, 2.
- "Good Defence on the Merits"—See JUDGMENT, 4.
- "Guardian of an Infant"—See DITCHES AND WATERCOURSES ACT.
- "Harsh and Unconscionable Transaction"—See MORTGAGE, 9.
- "Heirs"—See WILL, 9.

- "Interest-bearing Securities"—See WILL, 31.
 "Issue"—See WILL, 7, 19.
 "Just and Equitable"—See COMPANY, 20.
 "Justly Owing"—See MECHANICS' LIENS, 1.
 "Loan"—See WILL, 20.
 "Matter Preliminary to the Poll"—See MUNICIPAL CORPORATIONS, 7.
 "Not Just and Reasonable"—See INSURANCE, 10.
 "Oil and its Products"—See CONTRACT, 9.
 "Operations throughout the Dominion and elsewhere"—See COMPANY, 7.
 "Or otherwise"—See WILL, 30.
 "Others"—See CRIMINAL LAW, 2.
 "Overhead Charges"—See CONTRACT, 7.
 "Owner"—See DITCHES AND WATERCOURSES ACT—MECHANICS' LIENS, 4—MOTOR VEHICLES ACT.
 "Proper Control"—See NEGLIGENCE, 10.
 "Prospectus"—See CRIMINAL LAW, 5.
 "Quarterly"—See WILL, 27.
 "Request"—See MECHANICS' LIENS, 4.
 "Sale"—See LIQUOR LICENSE ACT, 2.
 "Sell"—See LIQUOR LICENSE ACT, 2.
 "Structure on Railway Lands"—See ASSESSMENT AND TAXES, 3.
 "The same"—See WILL, 29.
 "Unnecessary Damage"—See WATER, 3.
 "Upon"—See CONTRACT, 18.

WORK AND LABOUR.

See Contract, 4, 5, 10, 29, 30, 31.

WORKMEN'S COMPENSATION FOR INJURIES ACT.

See Master and Servant, 4.

WRIT OF SUMMONS.

See Judgment, 4—Practice, 1, 2.