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APPELLATE DIVISION.

FIRST DIVISIONAL COURT. OCTOBER 10TH, 1916.

*UPPER CANADA COLLEGE v. CITY OF TORONTO.

Assessment and Taxes—Local Improvements—Liability of Upper Canada College for—Exemptions—Local Improvement By-laws —Validity—Local Improvements Act, R.S.O. 1914 ch. 193, sec. 47—Upper Canada College Act, R.S.O. 1914 ch. 280, sec. 10—Conflict of Statutory Provisions—Special Act—General Act—Rule of Construction—Exception to General Rule.

Appeal by the plaintiffs from the judgment of FALCONBRIDGE, C.J.K.B., 10 O.W.N. 211, dismissing the action without costs.

The appeal was heard by GARROW, MACLAREN, and MAGEE, JJ.A., and MASTEN, J.

Frank Arnoldi, K.C. and D. D. Grierson, for the appellants.

Irving S. Fairty, for the defendants, respondents.

G. H. Sedgewick, for P. W. Ellis and others.

MASTEN, J., reading the judgment of the Court, said that the action was to set aside three by-laws of the defendants, the Corporation of the City of Toronto, and to restrain them from proceeding with the construction of an asphalt pavement and of a sidewalk on Oriole road, at the points and in the manner proposed. The contention was, that the by-laws were invalid and must be quashed or declared ineffective because they could be passed only after compliance with the preliminary formalities prescribed by the Local Improvements Act, R.S.O. 1914 ch. 193, including in particular the lodging of a petition signed by two-thirds in number of the owners and representing one-half in

*This case and all others so marked to be reported in the Ontario Law Reports.

value of the lots liable to assessment for the proposed improvement: sec. 12; that the appellants owned more than one-half in value of the lots liable (according to their contention) to be specially assessed for this improvement, and that the petition was not signed by them, and hence the petition was invalid and the by-laws had no legal foundation.

The respondents contended that the lands of the appellants were not liable to assessment for local improvements, being exempt by the Upper Canada College Act, R.S.O. 1914 ch. 280, sec. 10; and the appellants argued that their lands were liable to assessment for local improvements under sec. 47 of the Local Improvements Act, coupled with secs. 5 and 6 of the Assessment Act, R.S.O. 1914 ch. 195.

The learned Judge was of opinion that the collection of money for local improvements, pursuant to the Assessment Act, is taxation; and understood it to be admitted that Upper Canada College is not a school maintained in whole or in part by a legislative grant or a school tax, and that it is a college or seminary of learning. The provisions of sec. 47 would therefore apply to render the appellants' lands liable to assessment for local improvements. But sec. 10 of the Upper Canada College Act exempts the appellants broadly from all taxation, including local improvements, if lands of the Crown are likewise so exempt. (Crown lands are exempt from taxation by sec. 5 (1) of the Assessment Act.) The two sections being in conflict, the Court had to determine which of them should govern. The general Act provides that a college or seminary of learning shall be liable to taxation for local improvements; the Upper Canada College Act makes that particular institution an exception to the general rule; the rule as to exceptions should govern; and, therefore, the appellants were not liable to taxation for local improvements.

Reference to Craies' Statute Law, 4th ed., p. 469; Ontario and Sault Ste. Marie R.W. Co. v. Canadian Pacific R.W. Co. (1887), 14 O.R. 432.

It was argued that the later general Act repealed the earlier special Act; but the rule of construction above applied (if the provisions in a special Act and in a general Act on the same subject are inconsistent, and the special Act gives a complete rule on the subject, the expression of the rule acts as an exception of the subject-matter of the rule from the general Act) must override the argument; and, apart from the rule, the argument of the appellants was not sound.

The by-laws appeared to be valid, and this action not well-founded.

Appeal dismissed with costs.

FIRST DIVISIONAL COURT. OCTOBER 12TH, 1916.

LAURIN v. ST. JEAN.

Contract — Promise to Pay Money — Evidence — Forgery — Scheme to Defraud—Findings of Fact of Trial Judge—Appeal.

APPEAL by the plaintiff from the judgment of CLUTE, J., 9 O.W.N. 411.

The appeal was heard by MEREDITH, C.J.O., MACLAREN, MAGEE, and HODGINS, JJ.A.

Gideon Grant for the appellant.

M. K. Cowan, K.C., for the defendant, respondent.

THE COURT dismissed the appeal with costs.

HIGH COURT DIVISION.

RIDDELL, J., IN CHAMBERS. OCTOBER 10TH, 1916.

RE NASH AND CANADIAN ORDER OF CHOSEN FRIENDS.

Insurance—Life Insurance—Beneficiary Confined in Hospital for Insane—Order for Payment of Insurance Moneys by Insurers to Inspector of Prisons and Public Charities—Hospitals for the Insane Act, R.S.O. 1914 ch. 295, sec. 36—Insurance Act, R.S.O. 1914 ch. 183, sec. 176—4 Geo. V. ch. 30, sec. 10.

Motion by the Inspector of Prisons and Public Charities for an order directing the Canadian Order of Chosen Friends to pay to him the proceeds of an insurance upon the life of William Nash, deceased.

K. W. Wright, for the applicant.

Lyman Lee, for the society.

RIDDELL, J., in a written judgment, said that the late William Nash in 1895 became a member of the Canadian Order of Chosen Friends; he took out an insurance certificate for $1,000, payable to his wife, Emma Nash. William Nash died on the 25th March, 1916, in good standing in the Order, whereby Emma Nash be-

came entitled to the insurance money, some $750 odd. She, however, had become insane, and in the previous September had been admitted to the Hospital for the Insane at Hamilton, being still there at the time of this application.

William Nash having died intestate, letters of administration were granted to Mr. Dunlop, Inspector of Prisons and Public Charities, who applied for payment to him of the proceeds of the insurance; the society opposed the motion, and desired to pay the money into Court.

The learned Judge was of opinion that the provisions of the Hospitals for the Insane Act, R.S.O. 1914 ch. 295, sec. 36, overrode pro tanto those of the Insurance Act, R.S.O. 1914 ch. 183, sec. 176, and 4 Geo. V. ch. 30, sec. 10; and that the money should be paid to the Inspector.

Order accordingly.

MIDDLETON, J., IN CHAMBERS. OCTOBER 11TH, 1916

REX v. GEIGER.

Criminal Law—Magistrate's Conviction—Breach of Municipal By-law—Failure to Prove By-Law—Motion to Quash Conviction—Attempt to Uphold under sec. 238 (e), (f), (g) of Criminal Code—Vagrancy—Order Quashing Conviction—Costs—Protection of Magistrate and Persons Acting under Conviction.

Motion to quash the conviction of the defendant Geiger and two others, by a magistrate, upon a charge laid under a municipal by-law. The offence of which the defendants were found guilty consisted in disturbing, on a winter night, the slumbers of a man 85 years old and his wife by waking them up and telling them untruly that their horse had got into the garden and was destroying it. No by-law was proved before the magistrate; and it was sought to uphold the conviction as falling within the vagrancy section (238) of the Crimina Code, R.S.C. 1906 ch. 146.

A. B. McBride, for the defendants.
A. L. Bitzer, for the prosecutor.

MIDDLETON, J., in a written judgment, said that the offence shewn was not brought within any of the clauses of sec. 238, referring especially to clauses (*e*), (*f*), (*g*). If any offence had been

disclosed by the evidence, it would have been proper to amend the conviction, but it should not be amended unless the case was clearly brought within the statute, the prosecution having been commenced under another enactment.

The conviction should be quashed, but without costs and with an order for protection.

MIDDLETON, J. OCTOBER 11TH, 1916.

RE McCURDY AND JANISSE.

Vendor and Purchaser—Agreement for Sale of Land—Objections to Title—Construction of Clause in Will—Devise of Land and Buildings Absolutely—Tax Title—Confirmation by Statute—Purchase by Person Entitled to Income from Land for Life—Trustee—Acquisition of Title in Derogation of Right of Cestui que Trust—Suspicion of Collusion—Allowing Taxes to Become in Arrear.

Motion by the purchaser, under the Vendors and Purchasers Act, to determine the validity of two objections taken by him to the title of the vendor, upon a contract for the purchase and sale of land.

The motion was heard in the Weekly Court at Toronto.

A. H. Foster, for the purchaser.

R. A. Junor, for the vendor.

MIDDLETON, J., in a written judgment, said that the first objection arose on the construction of the will of the late Moses F. Grey, who apparently died in 1874. By his will, dated the 6th December, 1873, he made the following provision: "I give and devise to my wife . . . the house and other buildings situate lying and being on that north part of park lot letter A in the town of Sandwich which contains five acres, together with the building on one acre of the said five acres, being one-half acre in breadth by two acres deep . . . to have and to hold to her, her heirs and assigns forever." This clause was followed by a provision respecting the remaining four acres, pa t of this lot letter A, whieh, with other lands, was to be rented during the lifetime of the wife, and the income was to be given to her during her life. Upon one acre, a portion of the five-acre lot, was situated the homestead and all the buildings; and, although the clause was involved, the learned Judge was of opinion that sufficient appeared

to indicate the intention to give to the wife this one acre with all its buildings absolutely. Acting on this assumption, the widow had been in possession from 1874 to the present time.

The second question was more difficult. The four acres were devised to the executors, and the widow was entitled to the income for life. The taxes were allowed to fall into arrear. On the 7th April, 1910, the four acres were conveyed by tax deed to one Watson for $39.37, and on the 22nd April, 1910, Watson and his wife conveyed the four acres to the widow for $60.62. The tax title was confirmed by special statute, 3 & 4 Geo. V. ch. 120, sec. 5, enacting that all lands conveyed by tax deed are vested in the purchaser in fee simple free and clear of and from all right, title, and interest whatsoever of the owners thereof of the time of the sale. The objection taken was that, notwithstanding the tax sale and the very wide terms of this statute, Mrs. McCurdy occupied such a position, by reason of her life interest in the income, that she would hold the land as trustee for those beneficially interested in the will of her late husband. No cases were cited in support of this contention; but the principle evoked might be taken to be fairly illustrated by Building and Loan Association v. McKenzie (1897), 28 O.R. 316, and the cases there collected; the principle being that no trustee can acquire a title and set it up in derogation of the right of the cestui que trust. This principle has been enlarged so as to be applicable to all fiduciary and quasi-fiduciary relationships, and to the relationship of mortgagor and mortgagee; and, if this case had been one in which a life-tenant, whose duty it was to pay taxes, in breach of that duty allowed the taxes to fall into arrear and then purchased the lands, the life-tenant could not set up absolute ownership as against the reversioners. But here, in the first place, the widow was not the life-tenant; she was merely entitled to receive the income, that is, the net income, from the executors, who held the lands in trust; and, in the second place, the widow did not become the purchaser, but appears to have bought from the first purchaser.

The facts might well be considered as suspicious and suggestive of collusion, but there was nothing upon the papers beyond the naked fact indicated, and the transaction had stood for more than six years unimpeached by those who had the right to attack. The suggestion of the possibility of any outstanding equity in the remaindermen constituting a defect in the vendor's title that would justify the purchaser in refusing to carry out the sale, should not be entertained.

Order declaring that the two objections are not valid objections to the vendor's title.

MIDDLETON, J., IN CHAMBERS. OCTOBER 12TH, 1916.

*HENDERSON v. HENDERSON.

Practice—Writ of Summons—Special Endorsement—Appropriateness as to Part of Claim only—Defence and Counterclaim Set up by Affidavit of Defendant—Speedy Trial—Rules 56, 57, 117—Counterclaim an Answer to Action—Subsequent Delivery of Statement of Defence and Counterclaim by Leave—Affidavit not Superseded.

Appeal by the plaintiff from an order of the Master in Chambers refusing to strike out paras. 11 and 12 of the statement of defence and the counterclaim, on the ground that under the practice in an action commenced by a specially endorsed writ of summons, in which the plaintiff elects to have a summary trial, it is not competent for a defendant to counterclaim.

The action was for arrears of salary and commission and damages for wrongful dismissal.

The defendant filed an affidavit shewing a defence to the claim, and delivered a counterclaim for damages by reason of alleged misconduct on the part of the plaintiff—the same misconduct being relied on as a defence. The plaintiff thereupon made the election contemplated by Rule 56 (2), and set the action down for trial. The defendant did not object; but, not being satisfied that the affidavit adequately set up his defence, he applied for and obtained leave to deliver a further defence under Rule 56 (5), and delivered a statement of defence in which (paras. 11 and 12) the allegations of misconduct were more fully set forth, followed by a clause in which it was said that he by way of counterclaim repeated the allegations and asked for damages.

Grayson Smith, for the plaintiff.
A. W. Langmuir, for the defendant.

MIDDLETON, J., in a written judgment, said that the claim for damages for wrongful dismissal was not a proper subject of a special endorsement; a plaintiff has no right to a speedy trial save in a case in which the whole claim is specially endorsed. The amended defence, according to the learned Judge's understanding of Rule 56, does not supersede the defence set up in the affidavit; and in the affidavit the counterclaim was relied upon as an answer to the action. The question whether a defendant can file an affidavit setting up a counterclaim as an answer to the

action is not determined by Davis Acetylene Gas Co. v. Morrison (1915), 34 O.L.R. 155. Reference to Cox Coal Co. v. Rose Coal Co. (1916), ante 22.

Bearing in mind the policy of the Judicature Act that all claims between the parties arising out of the same transaction shall be heard and determined in the one proceeding, the learned Judge considered it better to hold that a counterclaim is an answer to the plaintiff's claim within Rule 56 (1), and that upon a motion for judgment under Rule 57 the Court may either award judgment or grant a stay of proceedings under Rule 117, as may be deemed proper; but, if no motion for judgment is made, and the plaintiff elects to have a summary trial, the affidavit which embodies the counterclaim is to be treated, in the language of Rule 56 (2), as, with the claim endorsed upon the writ, constituting the record for trial. The affidavit, having set up the counterclaim, ought not to be stricken out merely because it has been reiterated in the formal pleading.

Appeal dismissed with costs to the defendant in any event.

BOYD, C. OCTOBER 12TH, 1916.

*TRAILL v. NIAGARA ST. CATHARINES AND TORONTO R.W. CO.

Railway — Passenger — Personal Injury — Negligence — Time-limit for Action—Railway Act, R.S.C. 1906 ch. 37, secs. 2 (31), 284 (7), 306.

Action by one who was a passenger on a car of the defendants to recover damages for injuries sustained by reason of a collision between that car and another car of the defendants.

The action was tried with a jury at St. Catharines. The jury found for the plaintiff with $1,500 damages.

A. W. Marquis, for the plaintiff.
G. F. Peterson, for the defendants.

THE CHANCELLOR, in a written judgment, said that the defendants were a Dominion railway company, that negligence was practically admitted; and the question upon which judgment was reserved at the trial was, whether they were liable to be sued

after the lapse of time between the injury and the date of the writ of summons, two years or more; the defendants relying on the Dominion Railway Act, R.S.C. 1906 ch. 37, secs. 284 (7) and 306.

The learned Chancellor was of opinion, both from the force of judicial decision and from the reading of the Act, that it imposed no time-limit upon an action for injuries sustained by a passenger by reason of the negligence of the company in the safe and proper conduct of his person to its destination. He referred to sec. 2 (31) and sec. 306 (3) of the Act, and to Roberts v. Great Western R.W. Co. (1856), 13 U.C.R. 615; Auger v. Ontario Simcoe and Huron R.W. Co. (1857), 9 U.C.C.P. 164, 169; Ryckman v. Hamilton Grimsby and Beamsville Electric R.W. Co. (1905), 10 O.L.R. 419, 429; Sayers v. British Columbia Electric R.W. Co. (1906), 12 B.C.R. 102; *British Columbia R.W. Co.* v. *Turner* (1914), 49 S.C.R. 470, 489, 499.

Judgment for the plaintiff for $1,500 and costs.

MIDDLETON, J. OCTOBER 14TH, 1916.

RE FITZGIBBON.

Will—Construction—Legacies—Identification of Charitable Institution—Deficiency of Assets—Payment in Full of Specific Legacies—Abatement of Legacies Payable out of Residue—Enlargement of Fund to Produce Annuity—Income of Fund Given for Life on Conditions—Refusal of Legatee to Accept—Life Estate Falling into Residuary Estate—Charitable Gift—Perpetual Trust.

Motion by the executors for an order determining questions arising upon the will of Mary Agnes Fitzgibbon, who died on the 17th May, 1915.

E. G. Long, for the executors.

J. A. Paterson, K.C., for the Women's Welcome Hostel.

R. H. Parmenter, for Isabel Morphy.

E. C. Cattanach, for the Official Guardian, representing infants.

MIDDLETON, J., in a written judgment, said (1) that the Women's Welcome Hostel was the institution referred to in the will as "The Hostel;" (2) that the specific legacies had priority over the annuities directed to be paid out of the residue. There being a deficiency of assets, the residuary legacies must abate.

(3) Out of the residue, the testatrix directed sufficient to be set apart to realise $200 a year for her nephew Francis Badgley, the interest to be paid to his mother during her lifetime, and the capital to him at her death. This was followed by a provision that "a second portion realising $200 a year" was to be invested in trust for Douglas Simpkin, and paid in the same way. Then came this clause: "I desire that a third portion of $200 be invested and held in trust, the interest to be paid to my niece Mrs. Isabel Morphy quarterly". The learned Judge was of opinion that this could not be enlarged so as to read "a third portion yielding $200 per annum." It must be declared that this legatee was entitled to have only $200 set apart for her. The gift of the interest was sufficient to entitle her to receive at once her abated portion representing the $200. The funds to be set apart must abate pro rata.

(4) The testatrix, out of a certain fund constituting part of her estate, directed an amount to be set apart which would yield $10 per annum to be paid to her brother if he complied with certain terms. The brother had declined to accept the gift on those terms. On the death of the brother, half of the capital from which this income was to be set apart in trust to provide an annual prize for a girl going through the Hostel who fulfilled certain conditions. The learned Judge was of opinion that the refusal of the brother did not defeat the gift over, which would take effect only upon the death of the life-tenant. The life estate falls into the residuary estate: Kearney v. Kearney, [1911] 1 I.R. 137. This could be adjusted between those beneficially interested by estimating the value of the brother's life estate and reducing the fund accordingly, so that there might be an immediate division. The trust for the prize was a perpetual trust, but must be regarded as charitable, and therefore valid. The Hostel was undoubtedly a charitable institution for the laudable purpose of assisting immigrant girls, and the object of the bequest was to further the aims of the institution. Reference to Re Mariette (1915,) 113 L.T.R. 920.

Order accordingly; costs of all parties out of the estate.

BULMER v. BULMER—RIDDELL, J., IN CHAMBERS—OCT. 7.

Lis Pendens—Motion to Vacate Registry—Action for Alimony—Claim to Follow into Land of Husband Money Advanced by Wife.]—Motion by the defendant to vacate the registry of a certificate of lis pendens against the lands of the defendant. According to the writ of summons, the action was for alimony only. RIDDELL, J., in a written judgment, said that there could be no doubt that a lis pendens should not be issued and registered in an action for alimony: White v. White (1874), 6 P.R. 208; Crandell v. Crandell (1884), 20 C.L.J. 329; but here the plaintiff said that another claim was also set up in the statement of claim, viz., that the plaintiff lent or advanced money to her husband, and he put that money into the property in question. This gave the plaintiff no lien upon the land, and did not entitle her to register the certificate of lis pendens. The motion should be granted, with costs to the defendant in any event. Harcourt Ferguson, for the defendant. J. E. Lawson, for the plaintiff.

DISCEPOLO v. CITY OF FORT WILLIAM—FALCONBRIDGE, C.J.K.B.—OCT. 10.

Negligence—Collision between Electric Street Car and Motor Vehicle—Driver under Age of 18—Evidence—Contributory Negligence—Ultimate Negligence—Certified Copy of Pleadings—Colour of Paper.]—Actions by father and son against the city corporation for damages by collision of the plaintiffs' automobile with the defendants' street car. The plaintiff "Mike" was driving his father's motor vehicle, with the permission of his father; "Mike" was under the age of 18 years. This was contrary to the provisions of the Motor Vehicles Act, R.S.O. 1194 ch. 207, sec. 13. It was contended that the boy was, ipso facto, an unlawful, incompetent, and negligent driver. The action was tried without a jury at Port Arthur. The learned Chief Justice, in a written judgment, said that the evidence of independent witnesses was overwhelmingly in favour of the defendants on all the issues. Their statements were clear-cut, apart from the testimony of the motorman. No case of "ultimate negligence" was established against him. Actions dismissed with costs.—The learned Chief

Justice called attention to the use of *black* paper for the covers of the certified copies of the pleadings in these cases; and said that Registrars should refuse to certify records on paper of that colour. M. J. Kenny, for the plaintiffs. F. R. Morris, for the defendants.

WHITTAKER v. TORONTO R.W. CO. AND DOMINION TRANSPORT CO.—FALCONBRIDGE, C.J.K.B., IN CHAMBERS—OCT. 13.

Trial—Notice of Trial—Time for Service—Holiday.]—Motion by the defendants the Toronto Railway Company to set aside a notice of trial served by the plaintiff as having been served too late. FALCONBRIDGE, C.J.K.B., in a written judgment, said the notice of trial was served on the 30th September as for the 10th October. The commission-day of the Toronto autumn jury sittings was Monday the 9th October. That day was subsequently appointed to be Thanksgiving Day, and jurors and others interested were notified that no business would be taken up until Tuesday the 10th; but the 9th still remained the commission-day, and the sheriff attended on that day, in accordance with the statute, and adjourned the Court until Tuesday the 10th. Under these circumstances, the notice of trial was too late, and must be set aside and the case removed from the list. Costs to be costs in the cause to the applicants in any event. W. N. Cox, for the applicants. H. R. Frost, for the plaintiff.

RE CORMACK—MIDDLETON, J.—OCT. 13.

Trusts and Trustees—Executors and Trustees under Will—Administration of Estate—Passing of Accounts—Failure to Set apart Trust Funds—Abatement of Legacies—Residuary Estate—Trustees' Commission—Costs.]—On the 22nd December, 1915, an order was made appointing new trustees of the estate of James Cormack, under his will, and a reference was directed to the Local Master at Guelph to pass the accounts of the retiring trustees. On the 1st April, 1916, the Master made his report, from which there were appeals by Marjorie K. Harley, a granddaughter of the testator, by Frank Harley, a grandson, by the Guelph General Hospital, and a cross-appeal by the trustees, which appeals were heard in the Weekly Court at Toronto. MIDDLETON, J., disposed of the appeals in a written judgment in which he set

out the provisions of the will and the facts with regard to the administration of the estate by the executors. The estate was of about the value of $62,000. The learned Judge was of opinion that the scheme of the will was to provide that after payment, of two legacies of $4,000 and $500 and making over chattels specifically bequeathed, the residuary estate should constitute one trust fund, to be dealt with by the executors in the manner pointed out in clause 10 of the will, which contemplated the disposition of $48,000, the payment of two legacies of $5,000 each to charities, and the creation of three trust funds for the principal beneficiaries. The residuary estate did not include the dwelling-house of the testator. If the trustees had set apart the three funds, any loss resulting from the administration of the estate would have to be borne by the particular fund in which the loss occurred. As two of the three funds were never set apart, when the widow died, and the executors sought to distribute, they had no right to discriminate so as to allocate unquestionable assets entirely to one fund and throw doubtful assets into the other. The residuary estate was left to the Guelph General Hospital, to which also $12,000 was bequeathed, and nearly the whole sum had been paid to it. The gift of the house was intended to be residuary so far as the hospital was concerned, and the proceeds of the house (not yet sold) must in the first place be used to make good the trust fund as far as there may be any shortage upon realisation. The assets as yet unrealised must now be realised upon by the Master. If, upon realisation, the granddaughter cannot receive the same proportion of her legacy ($20,000) as the hospital received of its $12,000, the executors should be declared liable to her fund for the amount of the deficiency; the default to be made good before the trustees can receive anything on account of commission or costs. Certain other matters arising upon the appeals were dealt with by the learned Judge. In the result, the case was referred back to the Master to realise upon the assets for the purpose of providing the fund for Marjorie K. Harley; the Master to ascertain by how much each of the three funds should abate and to readjust the account in accordance with the rulings upon the appeals. Costs of all parties of the appeals to be paid out of the estate in such a way that they shall be charged pro rata against the three funds; but no costs should be paid to the executors, to the hospital, or to Frank Harley, until the amounts for which the trustees are liable, and which ought to be refunded by the hospital or Frank Harley, are made good. The losses, the expenses of administration, and costs, must all be borne pro rata by the three funds, and cannot be cast upon Marjorie K.

Harley's fund. J. H. Moss, K.C., and N. Jeffrey, for Marjorie K. Harley. J. A. Mowat, for Frank Harley. R. L. McKinnon, for the Guelph General Hospital and the Elliott Home. P. Kerwin, for the surviving trustees and executors of the deceased trustee.

CORRECTION.

In WEESE v. WEESE, ante 56, on p. 57, 14th line from top, insert after the word "account" the words "are to be our joint property."