

The Ontario Weekly Notes

Vol. II. TORONTO, SEPTEMBER 6, 1911. No. 47.

HIGH COURT OF JUSTICE.

DIVISIONAL COURT.

AUGUST 23RD, 1911.

*BARTLETT v. BARTLETT MINES LIMITED.

Company—Director—Salary as Officer of Company—Approval of Shareholders—Ontario Companies Act, 1907, sec. 88—Resolution of Directors—Confirmation—Performance of Duties.

Appeal by the defendants from the judgment of SUTHERLAND, J., ante 919, in favour of the plaintiff, in an action to recover \$2,500, as his salary for a year as mineralogist for the defendants, the plaintiff being himself a director of the defendants, an incorporated mining company.

The appeal was heard by FALCONBRIDGE, C.J.K.B., TEETZEL and LATCHFORD, JJ.

J. W. Bain, K.C., and M. Lockhart Gordon, for the defendants.

H. Cassels, K.C., for the plaintiff.

TEETZEL, J.:—The objection to the judgment chiefly relied on, and the only one which I think it necessary to discuss, is, that the provisions of sec. 88 of the Ontario Companies Act, 7 Edw. VII. ch. 34, were not complied with. . . .

[The learned Judge then set out the facts and gave extracts from the by-laws and minutes of meetings of the shareholders and directors of the company defendants.]

The proper finding of fact should be, that the resolution appointing the plaintiff mineralogist was not laid before the meeting of the new directors or considered or approved by them, or by the shareholders who signed the minutes. . . . It follows that the plaintiff must fail, for want of any colour of confirmation by shareholders, as required by sec. 88. . . .

[Mackenzie v. Maple Mountain Mining Co., 20 O.L.R. 615, distinguished; quotation from the judgment of Osler, J.A., at p. 618.]

*To be reported in the Ontario Law Reports.

That case determines only that, in the circumstances there shewn, the statute had been complied with; whereas, in this case, neither in form nor in substance has there been any attempt, in my opinion, to comply with its provisions. In the first place, there was no by-law whatever by the directors authorising any payment to a director, except by-law 34 in reference to the president; and, when the resolution appointing the plaintiff mineralogist was passed, he was not a director; and, after he became a director, there is no pretence of any resolution or by-law of the directors authorising payment to him of his salary as mineralogist during the time he was also a director.

The purpose or object of sec. 88 is that those who govern the company shall not have it in their power to pay themselves for their services without the shareholders' sanction.

[Reference to and quotations from *Birney v. Toronto Milk Co.*, 6 O.L.R. 1, 5, 6; *Beaudry v. Reid*, 10 O.W.R. 607, 625; *Re Queen City Plate Glass Co.*, *Eastmure's Case*, 1 O.W.N. 863.]

In the light of the above judicial opinions, and in the absence of any statutory provision that the individual consent of the shareholders is equivalent to the confirmation of a by-law at a general meeting, I think it cannot be held that the signature of all but one of the shareholders to the minutes in this case—assuming that they knew at the time that they were confirming the resolution in question—is a compliance with either the letter or spirit of sec. 88.

The only section of the Act in which any such provision is made is sec. 138, which provides that where any by-law is required by the Act to be sanctioned by a two-thirds vote of the shareholders at a general meeting, specially called for considering the same, it may, in lieu thereof, be validly sanctioned by the consent in writing of all the shareholders.

The plaintiff retained the office of director until January, 1910, although he attended only one meeting after those in January, 1909; and he did not at any time perform or offer to perform any work for the defendants as mineralogist. So that the case does not even possess the merit of a plaintiff having performed work and services entitling him to a moral, if not a legal, claim against the defendants.

In my opinion, therefore, the appeal should be allowed and the action dismissed with costs.

LATCHFORD, J.:—I agree.

FALCONBRIDGE, C.J.:—I agree in the result.

DIVISIONAL COURT.

AUGUST 25TH, 1911.

KIRKBY v. BRIGGS.

Master and Servant—Injury to and Consequent Death of Servant—Workman in Factory—Findings of Jury—Defective Method of Adjusting Belt—Workmen's Compensation for Injuries Act—Damages.

Appeal by the defendants from the judgment of SUTHERLAND, J., in an action tried at Brockville with a jury, in favour of the plaintiff, the widow of a man who was killed while in the defendants' employment in their factory, in an action to recover, for herself and her two children, damages for his death. The man was killed by a blow from a stick which he was using in attempting to adjust a belt upon a fixed pulley on the main shaft in the defendants' factory, while this shaft was rapidly revolving.

The questions submitted to the jury, with their answers, were as follows:—

1. Were the injuries which occasioned the death of the deceased caused by any negligence of the defendants? A. Yes.
2. If so, wherein did such negligence consist? A. (1) In defect of pulley on main shaft; (2) by defective way of adjusting belt; (3) by not having sufficient room for men while in the discharge of their duties; and (4) for poor system of management.
3. Were the deceased's injuries caused by any negligence on his part? A. No.
4. If so, wherein did the negligence consist?
5. Could the deceased, by reasonable care, have avoided the accident? A. We think not.

The jury assessed the damages at \$1,600, apportioning \$800 to the plaintiff and \$400 to each child.

The appeal was heard by FALCONBRIDGE, C.J.K.B., BRITTON and RIDDELL, JJ.

J. A. Hutcheson, K.C., for the defendants.

G. F. Henderson, K.C., for the plaintiff.

FALCONBRIDGE, C.J.:—In the answer to question 2, No. (2) alone requires to be considered.

No. (1), the small defect or slip out of the rim of the pulley, was practically abandoned by Mr. Henderson at the argument.

No. 3, a mere temporary obstruction, not affecting the permanent condition of a way is not a defect in the condition of a

way: *McGiffin v. Palmer's Co.*, 10 Q.B.D. 1; and the crowding was caused by the deceased himself depositing closet-seats there.

No. 4 is not warranted by the evidence.

The evidence, however, justifies the answer (2) . . . The plaintiff can recover only under the statute (the Workmen's Compensation for Injuries Act), and the damages must be reduced to the statutory limit, \$1,500, apportioned as follows: to the widow, \$750; to each child \$375.

With this variation, the appeal is dismissed. Because of this small reduction, the defendants are ordered to pay only three-fourths of the plaintiff's costs of appeal.

BRITTON, J., for reasons stated in writing, agreed in the result.

RIDDELL, J., dissented. He was of opinion, for reasons stated in writing, that, upon the findings and evidence, the plaintiff could not succeed, and that the appeal should be allowed and the action dismissed with costs.

CARTWRIGHT V. WHARTON—FALCONBRIDGE, C.J.K.B.—AUG. 21.

Interim Injunction—Infringement of Copyright—Convenience—Motion Adjourned to Trial—Undertaking to Keep Account.]—Motion by the plaintiff for an interim injunction restraining the defendant from issuing or selling a publication alleged to be copied from the plaintiff's Law List for 1911. The Chief Justice said that the season for selling the Law List or Legal Directory for 1911 was over—only an odd copy could be disposed of now. The ends of justice would best be served by directing the motion to stand over until the trial—the defendant keeping an account in the meantime. Pleadings might be delivered in vacation. If, when the cause is ripe for trial, the defendant has matters more important than this action demanding his presence elsewhere, he can apply in Chambers, in the usual way. Costs of this application to be costs in the cause unless the Judge at the trial shall otherwise order. J. H. Moss, K.C., for the plaintiff. D. T. Symons, K.C., for the defendant.

MONTREUIL V. ONTARIO ASPHALT BLOCK PAVING CO.—FALCONBRIDGE, C.J.K.B.—AUG. 22.

Interim Injunction—Nuisance—Delay in Moving—Motion Adjourned to Trial.]—Motion by the plaintiff for an interim

injunction restraining the defendants from allowing limestone dust, smoke, and foul odours to escape from their factory in the township of Sandwich East. The Chief Justice said that the motion was launched on the 14th July, the action having been commenced on the 4th July, and the argument of the injunction motion was not heard until the 17th August. There was, no doubt, considerable nuisance in May and June, but there was amelioration of conditions both before and since these proceedings were initiated. It could hardly be contended that there was not some nuisance even now, but he did not think that the situation was so intolerable for the plaintiff or his alleged injury so irremediable in its nature as to create a necessity to anticipate the regular formal disposition at the hearing. He, therefore, directed that the motion should stand over until the trial; costs thereof to be costs in the cause, unless the Judge should otherwise order. Pleadings to be delivered during vacation—the defendants to take short notice of trial and otherwise to speed the cause. J. H. Coburn, for the plaintiff. J. H. Rodd, for the defendants.

RE BURKE—FALCONBRIDGE, C.J.K.B., IN CHAMBERS—AUG. 25.

Executors—Investment of Moneys of Estate—Leave of Court—Absent Adult Beneficiary—Representation—Power to Bind.]—Motion by the executors of Adeline Burke for an order allowing and directing them to subscribe for twelve shares of the preferred stock of the International Assets Limited. The residence of H. L. B., who, if living, had a substantial interest in the estate, was unknown. So far as known, no infant was interested in the estate; and the Official Guardian declined to represent any adult unless the Court declared that it was his duty to do so. The Chief Justice said that it was no part of the Official Guardian's duty to do so; and that the Court had no authority or jurisdiction to bind H. L. B., if alive, or his representatives, if he were dead. The proposition might be (he did not say it was not) a perfectly good one. Application refused. The executors must act on their own responsibility as they might be advised. W. J. Boland, for the executors.

BELL v. SUPERIOR PORTLAND CEMENT CO.—FALCONBRIDGE, C.J. K.B.—AUG. 28.

Interim Injunction—Nuisance—Injury to Land—Refuse from Factory—Motion Adjourned to Trial.]—Motion by the

plaintiff for an interim injunction restraining the defendants from discharging water, oil, and other matter upon the plaintiff's lands in the township of Caledon. The Chief Justice said that the defendants acknowledged their transgressions (they said for the sake of peace) and paid the plaintiff \$140, and took a release from him, dated the 9th December, 1910; this covered damages only up to that date. Probably damages would again compensate him, if the defendants were still doing wrong—at any rate his injury could not be so irreparable, especially in view of the contradictory affidavits, as to induce the Court to anticipate the formal disposition at the trial; and the motion for an injunction should, therefore, stand over until then—costs to be costs in the cause, unless the Judge at the trial should otherwise order. The defendants had made a very reasonable suggestion for the speedy and inexpensive settlement of the whole matter—by a reference to the Local Judge. The Chief Justice said, also, that he intended to call the attention of the Department of Game and Fisheries to the fact that it was sworn that polluted and heated water was finding its way through a stream into the Credit river. G. S. Hodgson, for the plaintiff. W. C. Chisholm, K.C., for the defendants.

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- Number of Shares—Consent.*]—Upon appeal from the order of MIDDLETON, J., 1 O.W.N. 864, dismissing the appellant's summary application to rectify the register of members and the memorandum of agreement and stock-book of the company by removing therefrom the name of the appellant as the holder of 100 shares:—*Held*, that there was a discretion to refuse the motion without prejudice to an action being brought; but, upon consent, an order was made for the rectification of the register by reducing the holding of the appellant and recording him as the holder of one share; LATCHFORD, J., dissenting.—*Per* LATCHFORD, J., that the Court had no power, upon such an application, even upon consent, to interfere with the memorandum and stock-book filed with the Provincial Secretary—there being no other register of shareholders. *Re J. A. French & Co. Limited*, 2 O.W.N. 499.—D.C.
8. Shares—Subscription—Agreement Made after Incorporation and not with Company—Cancellation by Letter—Evidence of Receipt. *Canadian Druggists' Syndicate Limited v. Thompson*, 2 O.W.N. 1213, 24 O.L.R. 108.—D.C.
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15. Winding-up—Action by Company in Liquidation—Breach of Contract—Non-delivery of Goods Contracted for—Time—Adoption of Contract by Liquidator—Failure to Tender or Secure Payment—Relief from Further Delivery under Contract by Non-payment for Part Delivered. *William Hamilton Manufacturing Co. v. Hamilton Steel and Iron Co.*, 2 O.W.N. 779, 23 O.L.R. 270.—D.C.
16. Winding-up—Contestation of Claim—Stay of Proceedings—Separate Contestation by Liquidator—Discretion—Appeal. *Re Standard Cobalt Mines Limited*, 2 O.W.N. 725.—SUTHERLAND, J.
17. Winding-up—Contributory—Allotment of Shares—Absence of Notice—Special Application for Shares upon Unusual Terms as to Payment—Acceptance upon Different Terms—No Consensus. *Re Canadian Mail Orders Limited*, 2 O.W.N. 882.—BOYD, C.
18. Winding-up—Dominion Winding-up Act, sec. 70—"Clerks or other Persons"—Commercial Travellers—Preferred Claims for Wages and Expenses—Assignee of Employee—Assignor a Director—Absence of Authority from Shareholders to Receive Remuneration—Costs. *Re Morlock and Cline Limited, Sarvis and Canning's Cases*, 2 O.W.N. 706, 23 O.L.R. 165.—RIDDELL, J.
19. Winding-up—Mortgage Made by Company when Insolvent—Action by Liquidator to Set aside—Existing Debt to Bank—Security—By-law—Authorisation—Ratification—Ontario Companies Act. *Hammond v. Bank of Ottawa*, 2 O.W.N. 99, 22 O.L.R. 73.—C.A.

20. Winding-up—Ontario Companies Act—Foreign Action—Application for Leave to Proceed with, Refused—Judgment Obtained notwithstanding—Claim on, Disallowed by Master—Terms on Filing New Claim—Leave to Appeal. *Re Pittsburg Cobalt Co. and Robbins*, 2 O.W.N. 1295.—BRITTON, J.
21. Winding-up—Order Made on Petition of Company—Application by Creditor to Vacate—Conduct of Proceedings—Appointment of Liquidator—Place of Reference—Solicitor for Liquidator. *Re International Electric Co.*, 2 O.W.N. 665.—SUTHERLAND, J. (Chrs.)
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23. Winding-up—Order under Ontario Act—Right of Appeal from—"Practice and Procedure." *Re Canadian Mail Order Co., Meakins's Case*, 2 O.W.N. 1055.—MIDDLETON, J.
24. Winding-up—Petition for—Irregularity—Affidavits not Filed before Service—Con. Rule 524—Application to Proceeding under Dominion Winding-up Act—Secs. 5, 13, 135—Winding-up Order Made upon Subsequent Regular Petition—Contest between Solicitors for Carriage of Order—Practice—Discretion—Application for Leave to Appeal. *Re Belding Lumber Co. Limited*, 2 O.W.N. 739, 23 O.L.R. 255.—SUTHERLAND, J.—BOYD, C. (Chrs.)
25. Winding-up—Petition for—"Party"—Shareholder—Cross-examination upon Affidavit of Manager of Petitioner-company—Questions—Relevancy—Conspiracy.]—The president of a company, the holder of paid-up shares, was held to be a "party" to a proceeding for the winding-up of a company, having the right to appear and support or oppose, and the right to examine witnesses, etc.—Upon the cross-examination upon his affidavit of the manager of the company petitioning for a winding-up order, he declined to answer questions which had no relation to the financial condition of the company:—*Held*, that he must answer questions relating to an alleged conspiracy, to which he was said to be a party, to bring about an apparent state of insolvency of the company petitioned against. *Re McLean*

- Stinson and Brodie Limited*, 2 O.W.N. 294.—RIDDELL, J. (Chrs.)
26. *Winding-up—Right of Appeal from Interlocutory Order in Chambers—Practice—Winding-up Act, R.S.C. 1906 ch. 144, secs. 101, 104, 110.*]—In winding-up proceedings under the Dominion Act, the sole right of appeal is that conferred by that statute. Where no right of appeal is there given, the decision is final: *Re Sarnia Oil Co.*, 15 P.R. 182, 347. The right of appeal exists only in cases falling within sec. 101 of the Winding-up Act. The practice upon any such appeal is regulated by sec. 104. When a reference is made under sec. 110, there is an appeal from a decision of the Referee to a Judge. There is no provision for any interlocutory determination as to matters of procedure, save as may be permissible under sec. 110. And a motion for leave to appeal from an interlocutory order made by a Judge in the matter of a pending petition for a winding-up order, but before order made, was refused. *Re McLean Stinson and Brodie Limited*, 2 O.W.N. 435.—MIDDLETON, J. (Chrs.)
27. *Winding-up—Realisation of Assets—Claim by Mortgagee to Proceeds—Contestation by Liquidators—Leave to Bring Action against Liquidators—Powers of Referee—Dominion Winding-up Act, secs. 22, 110, 133—Discretion—Appeal—Frame of Action—Liquidators Representing Creditors. Re Raven Lake Portland Cement Co., National Trust Co. v. Trusts and Guarantee Co.*, 2 O.W.N. 761, 1314, 24 O.L.R. 286.—SUTHERLAND, J.—C.A.
28. *Winding-up—Sale of Assets Hypothecated to Bank—Assent of Bank—Application of Purchase-money—Claims of Guarantors of Company's Indebtedness to Bank—Pledge of Personal Property of Guarantors to Bank as Further Security—Expenses of Liquidation—Deduction from Purchase-money—Costs of Realisation and Preservation—General Costs of Liquidation and Remuneration of Liquidator—Payment Made by Guarantor—Lien—Realisation of Securities—Suspense Account—Subrogation—Specific Performance of Contract to Purchase Assets—Vesting Order—Payment into Court—Assignment of Collateral Securities. Scott v. Sis-men, Murphy v. Traders Bank of Canada*, 2 O.W.N. 697.—MIDDLETON, J.
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8. Breach—Evidence—Corroboration—Return of Money Advanced—Cancellation of Drafts—Chattels Withheld. *Williamson v. Bawden Machine and Tool Co.*, 2 O.W.N. 725.—FALCONBRIDGE, C.J.K.B.
9. Building Contract—Contract or No Contract—Quantum Meruit—Charge for Superintendence—Alleged Rescission of Contract—Evidence—Onus—Dispensing with Architect—Plans and Specifications—Extras—Parol Modification of Written Contract. *McKenzie v. Elliott*, 2 O.W.N. 1364.—BOYD, C.
10. Company—Authority of Agent—Ratification—Enforced Resignation of Manager—Promise to Pay Sum of Money—Evidence. *McCarthy & Sons Co. v. W. C. McCarthy*, 2 O.W.N. 842.—C.A.
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12. Construction — Party Wall — Openings in—Limitation of Rights—Counterclaim—Damages by Reason of Interim Injunction. *Rosevear v. Halliday*, 2 O.W.N. 1425.—MEREDITH, C.J.C.P.
13. Construction—Sale of Business—Covenant of Purchasers to Make Annual Payments—Proviso as to Reduction in one Event—Average of Deposits in Bank. *Telford v. Sovereign Bank of Canada*, 2 O.W.N. 833.—TEETZEL, J.
14. *Construction—Surrounding Circumstances—Prior Contract—Enforcement of Obligation to Furnish Money—Discretion—Limitation—“During his Present Illness”—Duration of Litigation—Release.*—The plaintiff had a claim in respect of certain mineral lands, which, from ill-health and lack of means, he was unable to establish. He suffered from a chronic and probably incurable disorder, and also from

one that was temporary and curable. The defendant undertook to supply the funds necessary to prosecute an action on behalf of the plaintiff to enforce his claim, and to take care of the plaintiff until the litigation was over, in consideration of receiving two-thirds of the claim. This agreement was in writing and was dated the 22nd May, 1907. A new agreement, dated the 31st May, 1907, was prepared and executed by both parties, whereby the plaintiff assigned two-thirds of his interest or claim to the defendant, in consideration of the defendant furnishing the plaintiff with such sums of money as the defendant might think reasonable for the care of the plaintiff "during his present illness." No reference was made in the second agreement to the first. The claim was prosecuted, and valuable property was recovered by a settlement of the action brought:—*Held* (MIDDLETON, J., dissenting), that the liability intended by both parties to be created by the two agreements was one limited to the period at which the litigation would be concluded. Judgment of a Divisional Court, 1 O.W.N. 469, 679, reversed, and judgment of LATCHFORD, J., restored. *McKnight v. Robertson*, 2 O.W.N. 231.—C.A.

15. Extrinsic Oral Evidence to Vary—Inadmissibility—Specific Clause in Contract Dealing with Variation—Construction—Action for Return of Money Paid—Commission Evidence—Unsatisfactory Nature of. *Carter v. Canadian Northern R.W. Co.*, 2 O.W.N. 639, 1464, 23 O.L.R. 140, 24 O.L.R. 370.—D.C.—C.A.
16. Formation—Letters and Telegrams—Sufficiency—Statute of Frauds—Vendor and Purchaser—Letter "without Prejudice"—Effect of—Specific Performance—Form of Judgment. *Latimer v. Park*, 2 O.W.N. 1399—C.A.
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21. Modifications—Authority of General Manager of Insurance Company—Contract with Agent—Commission on Renewal Premiums—Continuance beyond Lifetime of Agent—Acceptance of Services. *Skinner v. Crown Life Insurance Co.*, 2 O.W.N. 647.—C.A.
22. Oral Promise—Evidence—Consideration. *Schuler v. McIntosh*, 2 O.W.N. 48.—D.C.
23. Payment for Wheat—Liability—Evidence—Undertaking—Letter. *Empire Elevator Co. v. Thompson & Sons Co.*, 2 O.W.N. 678.—SUTHERLAND, J.
24. Procurement by Fraud—Misrepresentation of Agent—Sale of Patterns—Notice of Cancellation of Contract—Return of Patterns. *McCall Manufacturing Co. of New York v. Hickson*, 2 O.W.N. 867.—LATCHFORD, J.
25. Sale by Liquidator of Stock in Trade of Insolvent Company—Reorganisation—Purchase of Goods by New Company—No Active Part in Sale Taken by Liquidator—Goods Sold “Free from Incumbrance,” and “Subject to Shorts and Longs”—Illegal Sale of Goods for Bleaching Charges. *Dominion Linen Mills Co. v. Langley*, 2 O.W.N. 1255.—C.A.
26. Sale of Goods—Conditions Relieving Vendor from Liability—Findings of Jury—Property not Passing—Right of Purchaser to Damages—Assessment of Damages. *Case v. Feighen*, 2 O.W.N. 1370.—D.C.
27. Sale of Land and Business—Dispute as to Price and Mode of Payment—Parol Evidence—Rectification of Written Agreement—Costs. *Strothers v. Taylor*, 2 O.W.N. 1435.—SUTHERLAND, J.
28. Sale of Mining Properties—Purchase-price Payable by Instalments—Judgment—Payment of Instalment into Court—Reference—Appeals—Subsequent Instalments—Direction

- for Payment into Court. *Leckie v. Marshall*, 2 O.W.N. 1441.—SUTHERLAND, J.
29. Statute of Frauds—Part Performance—Services—Promise to Give Land at Death—Possession—Equivocal Effect of. *Coulter v. Elvin*, 2 O.W.N. 678.—D.C.
30. Timber—Measurement—Government Scalars. *Martin v. Beck Manufacturing Co.*, 2 O.W.N. 219, 680.—LATCHFORD, J.—D.C.
31. Trading Company—Sale of Shares, Business, Assets, Stock, and Goodwill—Assumption of Liabilities by Purchaser—Salary of Manager—Transfer of Property before Action—Costs. *Strong v. Van Allen*, 2 O.W.N. 929.—C.A.
32. Undertaking of Defendants to Sell Company Shares—Failure of Plaintiffs to Furnish Shares—Counterclaim—Fraud—False Representations Inducing Purchase of Property for Company—Payment by Defendants Acting on Representations—Failure to Shew Fraud—Finding of Trial Judge—Appeal—Leave to Amend—New Trial—Election. *Neil v. Woodward*, 2 O.W.N. 533.—D.C.
33. Work and Labour—Assertion of Substituted Contract—Evidence—Finding of Fact of Trial Judge—Reversal on Appeal. *Drake v. Cadwell*, 2 O.W.N. 282.—D.C.
34. Work and Labour—Building Boat—Acceptance. *Davis v. Clemson*, 2 O.W.N. 167.—D.C.
35. Work and Labour—Independent Contractor—Liability of Employer for Work Done in Course of Executing Contract—Taking Soil from Neighbouring Land—Liability as between Contractor and Servant—Acts Done in Ignorance—Innocent Trespass—Damages. *Power v. Magann*, 2 O.W.N. 425.—D.C.
36. Work and Labour—Rate of Payment—Evidence—Quantum Meruit—Costs. *Montgomery v. Cockshutt Plough Co.*, 2 O.W.N. 824—FALCONBRIDGE, C.J.K.B.
37. Work and Labour—Repair of Boat—Impossibility of Performance of Contract—Loss of Boat—Act of God—Negligence not Shewn—Recovery of Value of Work Done. *Polson Iron Works Co. v. Laurie*, 2 O.W.N. 1187.—MEREDITH, C.J.C.P.

38. Work Done on Building—Action for Balance of Price—Attempt to Inspect Building—Reference—Costs. *Keyes v. McKeon*, 2 O.W.N. 1014.—FALCONBRIDGE, C.J.K.B.
39. Writing under Seal—Servant of Company—Transfer of Shares for Benefit of—Gift—Condition—Construction of Contract—Rectification—Evidence. *Gee v. Eagle Knitting Co.*, 2 O.W.N. 619.—C.A.
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2. Petition for Declaration of Lunacy—Costs of Relatives Intervening. *Re Brown*, 2 O.W.N. 924.—MIDDLETON, J. (Chrs.)
3. *Scale of Costs—Action in County Court—Division Court Jurisdiction—Ascertainment of Amount in Question—Documents—Division Courts Act, 10 Edw. VII. ch. 32, sec. 62 (d).*]—In construing the new provision of the Division Courts Act, sec. 62 (d) of 10 Edw. VII. ch. 32, that “an amount shall not be deemed to be so ascertained”—that is, ascertained by the signature of the defendant—“where it is necessary to give other and extrinsic evidence beyond the production of a document and proof of the signature to it,” it is safer to regard it as establishing a new and independent test of jurisdiction, rather than as an adoption of either of the conflicting theories accepted by different Courts in their attempts to construe the former enactment. The amount may be said to be ascertained where the claim is made out by the production and proof of signature of several documents, even where one of them was not signed by the defendant. *Slater v. Laberee*, 9 O.L.R. 545, followed.—And held, upon the facts, that the defendant’s liability arose, not from possession taken under a defectively executed assignment of a lease, and not merely by virtue of a covenant running with the land, but also by virtue of his assumption, under his hand and seal, of the lessee’s covenants in the lease in question. *McIlhargey v. Queen*, 2 O.W.N. 364.—D.C.
4. *Scale of Costs—County Court Appeal—Costs of Opposing Appeal—Con. Rule 1132—Set-off—Judgment—Entry—Con. Rules 791, 827.* *McIlhargey v. Queen*, 2 O.W.N. 781.—RIDDELL, J. (Chrs.)
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7. Scale of Costs—Jurisdiction of County Court—Defamation—Verdict for \$100—Discretion of Trial Judge—Conduct of Defendant—County Court Costs Allowed to Plaintiff—Defendant Deprived of Set-off. *Striker v. Rosebush*, 2 O.W.N. 160.—BRITTON, J.
8. Scale of Costs—Slander—Malicious Prosecution—Damages—Amount Claimed more than \$500—Assessment by Jury at Less—9 Edw. VII. ch. 28, sec. 21(1)(b)—Con. Rule 1132—Jurisdiction of County Court—Set-off. *Moffatt v. Link*, 2 O.W.N. 56.—BOYD, C.
9. Security for Costs—Issue as to Identity of Claimant of Interest in Land—Claimant out of Jurisdiction—Real Actor—Onus. *Boyle v. McCabe*, 2 O.W.N. 1248, 1293, 1346, 24 O.L.R. 313.—MASTER IN CHAMBERS.—RIDDELL, J. (Chrs.).—D.C.
10. Security for Costs—Increased Security—Application on Eve of Trial. *Strati v. Toronto Construction Co.*, 2 O.W.N. 221.—MASTER IN CHAMBERS.
11. Security for Costs—Issue Directed to be Tried in Surrogate Court—Plaintiffs in Issue Resident out of Province, but not Coming into Court Voluntarily—Jurisdiction of Judge of Surrogate Court to Make Order for Security—Issue Sent by High Court for Trial in Surrogate Court. *Forbes v. Forbes*, 2 O.W.N. 976, 32 O.L.R. 518.—D.C.
12. Security for Costs—Libel—Newspaper—Assets in Jurisdiction—Insufficiency. *Mansell v. Robertson*, 2 O.W.N. 337, 380.—MASTER IN CHAMBERS.—MEREDITH, C.J.C.P. (Chrs.)
13. Security for Costs—Libel—Newspaper—9 Edw. VII. ch. 40, sec. 12—Nature of Action—Nature of Defence—Property of Plaintiff Available to Answer Costs. *McVeity v. Ottawa Free Press Co.*, 2 O.W.N. 613, 703.—MASTER IN CHAMBERS.—BRITTON, J. (Chrs.)
14. *Security for Costs—Motion to Quash Municipal By-law—Real Actors Putting forward Man of Straw—Leave to Add Real Actors as Applicants—Statutory Amount of Security—Additional Amount to be Furnished—Terms of Order—Stay of Proceedings.*—Upon an application to quash a local option by-law of a municipality, the respondents, the municipal corporation, were *held*, entitled to security from the applicant for their costs of the application, upon the ground

- that he was a man of straw put forward by the real actors, or to have the real actors added as applicants.—The statutory requirement of security to a certain sum does not take away the right of the Court to require those invoking its aid to come personally before it and assume full responsibility for their actions, or supply such security as will be adequate to meet the respondents' costs.—Hearing of motion stayed until security given or applicants added; in default, motion against by-law to be dismissed with costs. *Re Sturmer and Beaverton*, 2 O.W.N. 1053.—MIDDLETON, J. (Chrs.)
15. Security for Costs—Next Friend of Infant Plaintiffs Resident Abroad—Application Refused by Trial Judge—Dismissal of Action without Costs—Appeal by Plaintiffs to Divisional Court—Fresh Application for Security—Effect of Former Refusal—Subsequent Costs—Discretion—Delay in Moving—Appointment of New Next Friend. *Belanger v. Belanger*, 2 O.W.N. 895.—MASTER IN CHAMBERS.
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 18. Summary Disposition—Master in Chambers—Jurisdiction—Consent of Parties—Appeal—Con. Rule 616—Stay of Action—Satisfaction of Claim—Incidence of Costs—"Order Made by Consent"—"Judge of the High Court"—Judicature Act, sec. 72—Con. Rule 767—"Order as to Costs only." *Davis v. Winn*, 2 O.W.N. 47, 123, 22 O.L.R. 111.—D.C.
 19. Taxation—Counsel Fee—Postponement of Trial—Item 153 of Tariff—Discretion of Taxing Officer—Appeal. *McDonald v. Grand Trunk R.W. Co.*, 2 O.W.N. 748.—MIDDLETON, J. (Chrs.)
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2. Assisting Prisoners to Escape — Lunatics Acquitted on Charges of Murder—Detention in Provincial Asylum—Criminal Code, sec. 192—Order of Lieutenant-Governor of

- Province—Lawful Custody under Sentence of Imprisonment for Less than Life—Evidence to Support Conviction—Accomplice—Corroboration. *Rex v. Trapnell*, 2 O.W.N. 174, 22 O.L.R. 219.—C.A.
3. Bigamy—Proof of First Marriage—Criminal Code, sec. 307—Foreign Marriage—Evidence—Admission of Accused—Testimony of Witnesses Unskilled in Foreign Law—Presumption—Judicial Notice. *Rex v. Naoum*, 2 O.W.N. 1347, 24 O.L.R. 306.—C.A.
 4. Carnal Knowledge of Girl under Fourteen—Second Count for Offence when Girl over Fourteen—Trial of Prisoner on both together—Withdrawal from Jury of Second Count after Evidence all in—Conviction on First Count—Prejudice—Evidence—Admissibility—Exhibiting Child to Jury—Pointing out Likeness to Defendant. *Rex v. Hughes*, 2 O.W.N. 307, 22 O.L.R. 344.—C.A.
 5. Carnal Knowledge of Young Girl by Prisoner on his own Premises—Act of Commission—Application of sec. 217 of Criminal Code—Proof of Knowledge of Age. *Rex v. Sam Sing*, 2 O.W.N. 493, 22 O.L.R. 613.—C.A.
 6. Common Nuisance—Indictment—Motion to Quash—Demurrer—Jurisdiction—Railway and Municipal Board—Street Railway—Endangering Life and Comfort—Fenders, Guards, and Appliances—Overcrowding—Duty to Passengers—Carriers of Passengers—Agreement with City Corporation—Questions of Law Reserved for Court of Appeal. *Rex v. Toronto R.W. Co.*, 2 O.W.N. 753, 23 O.L.R. 186.—RIDDELL, J.
 7. Conveying Information relating to Betting upon Horse-races—Criminal Code, sec. 235(h)—“Wilfully and Knowingly”—Local Manager of Telegraph Company—Absence of Evidence to Sustain Conviction—Stated Case—Mistake in Facts—Correction—Criminal Code, sec. 1017(3). *Rex v. Hogarth*, 2 O.W.N. 727.—C.A.
 8. Fraudulent Sale of Land Subject to Equity of Redemption—Criminal Code, sec. 421—“Privilege.” *Rex v. McDevitt*, 2 O.W.N. 396, 22 O.L.R. 490.—C.A.
 9. Fugitive Offenders Act—Arrest of Person Charged with Offence in another Part of His Majesty’s Dominions—Warrant not Indorsed as Provided by sec. 8—Committal of Ac-

- cused to Await Return—Jurisdiction of Police Magistrate—Secs. 9, 10, 11, 12, 29—Habeas Corpus—Lawful Detention. *Rex v. Wishart*, 2 O.W.N. 271, 491, 22 O.L.R. 594.—MEREDITH, C.J.C.P.—C.A.
10. Imprisonment without Warrant—Habeas Corpus—Rightfulness of Detention at Time of Return—Valid Warrant—Voluntary Surrender before Issue of Warrant—Expiry of Term—Time for—New Habeas Corpus—Costs of Conveying to Gaol—Amendment of Warrant—Conviction for Offence against Liquor License Act—Objections to—Evidence not Taken before Summons Issued—8 & 9 Edw. VII. ch. 9 (D.)—Information—Sufficiency—Date of Offence—Previous Conviction—“Autrefois Convict.” *Rex v. Mitchell*, 2 O.W.N. 1408, 24 O.L.R. 324—RIDDELL, J. (Chrs.)
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 13. Justices of the Peace—Conviction—Jurisdiction—Imprisonment—Habeas Corpus—Certiorari in Aid—Order Quashing Warrant of Commitment and Directing Bringing of Prisoner before Justices for Preliminary Hearing—Criminal Code, sec. 1120—Construction and Application of. *Rex v. Frejd*, 2 O.W.N. 486, 22 O.L.R. 566.—C.A.
 14. Lord’s Day Act, C.S.U.C. ch. 104, sec. 1—Sale of Cigars and Candy on Sunday by Restaurant-keeper—Proprietor of News-stand in Hotel—Druggist—“Merchant or Tradesman”—Articles not to be Consumed on Premises—Exercise of Ordinary Calling—Cigar not a Drug—Works of Necessity—Ancillary Business—Differences between Ontario and English Act. *Rex v. Wells*, *Rex v. Aldeen*, *Rex v. Waldock*, *Rex v. Roe*, 2 O.W.N. 1232, 24 O.L.R. 77.—MIDDLETON, J. (Chrs.)
 15. Magistrate’s Conviction—Destruction of Property—Jurisdiction of Magistrate—Excessive Fine—Compensation—

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16. Murder—Counselling and Procuring—Illegitimate Child—Evidence—Intimacy of Prisoner with Mother of Child—Admissibility—Improper Relations with other Men—Inadmissibility — Accomplice — Corroboration — Direction to Jury. *Rex v. McNulty*, 2 O.W.N. 309, 22 O.L.R. 350.—C.A.
 17. Neglecting to Provide Necessaries for Wife—Acquittal on Previous Indictment—Evidence then before Court—Admissibility—Ability to Provide Necessaries—Absence of Demand after Acquittal—Evidence—Submission to Jury. *Rex v. Yuman*, 2 O.W.N. 392, 22 O.L.R. 500.—C.A.
 18. *Perjury—Oath—Authority of Acting Crown Timber Agent to Administer.*]—*Held*, having regard to the provisions of the Crown Timber Act, R.S.O. 1897 ch. 32, the Interpretation Act, 7 Edw. VII. ch. 2, sec. 7 (20), and the Public Lands Act, R.S.O. 1897 ch. 28, that an “acting Crown Timber Agent” has no authority, as such, to administer the oath required by sec. 15 of the Crown Timber Act; and the acquittal of the defendant upon a charge of perjury in respect of an affidavit sworn to before such acting agent was affirmed. *Rex v. Johnston*, 2 O.W.N. 106.—C.A.
 19. Procedure—Removal of Indictment from Sessions into High Court. *Rex v. Atlas*, 2 O.W.N. 800.—TEETZEL, J. (Chrs.)
 20. Rape—Indictment for—Verdict of Common Assault—Competency—Evidence as to Unchastity of Complainant—Denial by Complainant—New Trial—Right of Crown—Stated Case. *Rex v. Muma*, 2 O.W.N. 176, 22 O.L.R. 225.—C.A.
 21. Selling Newspapers Containing Racing Information—Intent to Assist in Betting—Criminal Code, sec. 235 (f)—Conviction—Evidence—Stated Case—Police Magistrate—Pro Forma Finding. *Rex v. Luttrell*, 2 O.W.N. 729.—C.A.
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3. Death of Workman—Action by Widow under Fatal Accidents Act—Assessment by Jury—Actual Pecuniary Loss—Application of sec. 7 of the Workmen's Compensation for In-

- juries Act—Proceeds of Accident Insurance Policy—Right of Jury to Consider. *Dawson v. Niagara St. Catharines and Toronto R.W. Co.*, 2 O.W.N. 85, 1080, 22 O.L.R. 69, 23 O.L.R. 670.—CLUTE, J.—C.A.
4. Fraud and Misrepresentation—Sale of Creameries—Measure of Damages—Difference between Purchase-price and Fair Value—Loss of Profits in Operation—Finding as to Fair Value—Destruction of Books—*Omnia Præsumuntur contra Spoliatorem*—Appeal from Report—Costs. *Lamont v. Wenger*, 1 O.W.N. 177, 2 O.W.N. 519, 22 O.L.R. 642.—MEREDITH, C.J.C.P.
5. Personal Injuries—Negligence—Explosion of Dynamite—Physical Injury—Traumatic Neurasthenia—Liability of two Township Corporations—Relief over—Quantum of Damages. *Gamble v. Townships of Vaughan and Markham*, 2 O.W.N. 285.—CLUTE, J.—D.C.
6. Personal Injuries—Negligence—Obstruction in Highway—Absence of Warning—Liability of Municipal Corporation—Assessment of Damages—Evidence—Refusal to Submit to Operation—Reasonableness—Neurasthenia. *Bateman v. County of Middlesex*, 2 O.W.N. 1238, 24 O.L.R. 84.—RIDDELL, J.
7. Personal Injuries—Negligence—Quantum of Damages—Jury. *Gissing v. Eaton*, 2 O.W.N. 1021.—D.C.
8. Personal Injuries—Negligence—Traumatic Neuasthenia—“Railway Shock”—Jury—Street Railways. *Toms v. Toronto R.W. Co.*, 2 O.W.N. 169, 22 O.L.R. 204.—C.A.
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2. Construction—Party Wall—Right to Build into—Compensation—"Assigns"—Erection of Building—Trespass—Easement—"Privilege"—Restrictive Covenant. *Roche v. Allan*, 2 O.W.N. 787, 23 O.L.R. 300.—D.C.
3. Construction—Variance between Grant and Habendum—Estate—Survivorship—Vendor and Purchaser.]—In a conveyance of land the grant was to husband and wife or the survivor of them in fee simple, but the *habendum* was to them, their heirs and assigns:—*Held*, upon a motion by the surviving wife, under the Vendors and Purchasers Act, that she was in a position to convey in fee simple, as survivor,

if the grant was to govern; and, if the *habendum* was to govern, the husband and wife did not take as tenants in common by force of sec. 11 of the Law and Transfer of Property Act (R.S.O. 1897 ch. 119), because an intention sufficiently appeared on the face of the conveyance that the survivor was to take; and, viewing the deed in either way, she took the whole. *Re Fingerhut and Barnick*, 2 O.W.N. 372.—MEREDITH, C.J.C.P.

4. Incapacity of Grantors—Inadequate Consideration—Lack of Independent Advice—Setting aside Deed. *Keitel v. Keitel*, 2 O.W.N. 431.—FALCONBRIDGE, C.J.K.B.

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1. Libel—Newspaper—Pleading—Justification—Particulars—Practice. *Wilkinson v. Hamilton Spectator Co., Wilkinson v. Mail Printing Co.*, 2 O.W.N. 471.—MASTER IN CHAMBERS.
2. Libel—Pleading—Statement of Claim—Motion to Strike out as Disclosing no Reasonable Cause of Action—Con. Rule 261—Innuendo—Imputation of Bastardy—Improbable Inference—Question for Jury—Attacking Defendant's Legitimacy—Striking out Part of Pleading. *Barnes v. Carter*, 2 O.W.N. 8.—MIDDLETON, J. (Chrs.)
3. *Slander—Damages—Quantum—Jury—Interference by Court—Costs—Depriving Successful Plaintiff of—Good Cause—Discretion—Appeal—Counterclaim—Set-off.*]—The trend of decision is in favour of recognising the supremacy of the jury in dealing with the quantum of damages awarded. The Court will not hesitate to interfere if satisfied that the amount is so large that no twelve men could have reasonably given it, or if satisfied that the jury must have taken into account matters which they ought not to have considered, or acted upon a wrong principle; but, unless the Court is, for some good reason, so dissatisfied with the verdict as to feel warranted in granting a new trial, the award of the jury cannot be interfered with. In an action of defamation the jury are peculiarly qualified to deal with this question: they are al-

lowed to award vindictive or exemplary damages, and are not confined to the actual damage shewn. And in an action of slander the Court refused to set aside a verdict for the plaintiff for \$150 damages.—*Held*, also, that the trial Judge was justified by the plaintiff's conduct in depriving him of costs, though he succeeded at the trial.—*Held*, also, that the defendant having, in the action for slander, counter-claimed for a money demand, and the counterclaim having been struck out, the Court could not, upon appeal from the judgment at the trial, order the amount of the plaintiff's verdict to be set off against the amount to be recovered by the defendant in another proceeding; that matter should have been dealt with on the motion to strike out the counterclaim. *Sill v. Alexander*, 2 O.W.N. 401.—D.C.

4. Slander—Statement that Plaintiff was a Lunatic at Large—Words not Actionable—General and Special Damages—Costs. *Boothman v. Smith*, 2 O.W.N. 1037.—MULOCK, C.J. Ex.D.

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2. Examination of Parties—Defendant—Place for Examination—Residence—Change pendente Lite—Con. Rule 443—Practice—Costs. *Jeune v. Mersman*, 2 O.W.N. 418.—RIDDELL, J. (Chrs.)
3. Examination of Parties—Defendant—Relevant Questions—Duty of Defendant to Inform himself—Further Examination. *Horton v. Maclean*, 2 O.W.N. 804, 1493.—MASTER IN CHAMBERS.—SUTHERLAND, J. (Chrs.)
4. *Examination of Parties—Officer or Servant of Defendant Municipal Corporation—Con. Rule 439a—Superintendent of Works—Commissioners.*]—The superintendent of the power and light department of a municipal corporation was held, to be a servant of the corporation and examinable for discovery as such, under Con. Rule 439a, in an action against the corporation for damages for negligence in respect of an electric wire, although the department was

- managed by a Board of Waterworks and Electric Light Commissioners, who engaged the superintendent. *Young v. Town of Gravenhurst*, 2 O.W.N. 118, 167.—LATCHFORD, J. (Chrs.)—D.C.
5. Examination of Parties—Partner in Defendant Firm—Denial—Con. Rules 223, 224—Libel. *Telfer v. Dun*, 2 O.W.N. 1126, 1146.—MASTER IN CHAMBERS.—BRITTON, J. (Chrs.)
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 8. Examination of Parties—Plaintiff—Privilege—Information Obtained for Use at Trial under Instructions of Solicitor. *Southwell v. Shedden Forwarding Co.*, 2 O.W.N. 562.—MASTER IN CHAMBERS.
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4. Nonrepair—Injury to Pedestrian—Sidewalk Slightly Raised at Crossing—Dangerous Place—Continuance of Condition for Long Period—City Corporation Affected with Notice—New District Taken over by City—Municipal Act, 1903, sec. 609—Negligence—Liability—Damages. *Jackson v. City of Toronto*, 2 O.W.N. 461.—CLUTE, J.
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7. *Nonrepair of Sidewalk at Crossing—Injury to Pedestrian—Negligence—Evidence—Inspection—Absence of Actual Knowledge—Inference from Time of Continuance—Conflict of Testimony—Costs.*—The plaintiff was injured by a fall upon a sidewalk in a village street, by reason of having put her foot into a hole in the sidewalk, about ten o'clock at night. The sidewalk was an old one, but was inspected twice a week, and repairs were made when neces-

sary. Repair had been made in a place near where the plaintiff fell about eleven days before she fell, and the man who repaired it said there was no spot near-by that was then, in his judgment, unsafe for travel. The day before the plaintiff fell, a heavy waggon had passed over the place where she fell:—*Held*, upon conflicting evidence, that the defendants were not affected with notice from the continuance of the defect for a long time, and were not liable for the plaintiff's injury; but, as she had ground for believing that the sidewalk was so long out of repair as to inculpate the defendants, the action should be dismissed without costs. *Innis v. Village of Havelock*, 2 O.W.N. 205, 871.—BOYD, C.—D.C.

8. *Obstruction or Nonrepair—Injury to Pedestrian—Negligence of Municipal Corporation—Boulevard Forming Part of City Street—By-law Prohibiting Use of as Crossing—Foot-path—User by Public—Knowledge of Corporation.*—The plaintiff, on a September evening, was crossing a part of a public street which was called a "boulevard," by a regularly used foot-path, and was injured by reason of some scoria blocks having been left by the defendants upon the so-called boulevard. It was contended by the defendants that the plaintiff was a trespasser by reason of a municipal by-law forbidding persons to walk upon boulevards:—*Held*, without determining whether the place of injury was a "boulevard" from which the public were excluded, that the defendants were liable; the path having resulted from the habitual user by the public, knowledge thereof must be imputed to the defendants, and they failed in their duty towards the public by creating, without notice or warning, the dangerous condition which caused the injury. *Lowery v. Walker*, 27 Times L.R. 83 (H.L.), followed. Judgment of LATCHFORD, J., 2 O.W.N. 87, reversed. *Breen v. City of Toronto*, 2 O.W.N. 690.—D.C.
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2. Action for Declaration of Nullity of Marriage—Judicature Act, sec. 57 (5)—Jurisdiction of High Court of Justice—Parties Related within Prohibited Degrees—7 Edw. VII. ch. 23, sec. 8—Absent Defendant—Service of Writ of Summons—Evidence. *May v. May*, 2 O.W.N. 68, 413, 22 O.L.R. 559.—LATCHFORD, J.—D.C.
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2. Past Maintenance—Claim of Relative upon Estate of Infants—Discretion. *Re Hollis*, 2 O.W.N. 1447.—SUTHERLAND, J. (Chrs.)

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12. *Life Insurance—Benefit Certificate—Moneys Payable to "Wife"—Death of Wife—Remarriage of Assured—Claim by Widow—Children of Child who Predeceased Assured.*—The beneficiary named in a certificate of life insurance, dated the 9th December, 1891, was "the wife" of the assured, and in his application he gave her name. She died in 1898, and the assured married again, and died leaving his second wife surviving him. The insurance moneys were

claimed by her and also by his surviving children and the infant children of a son who predeceased the assured:—*Held*, that sub-sec. 7 of sec. 159 of the Insurance Act, R.S.O. 1897 ch. 203, did not apply, but that sub-sec. 8 of sec. 159, as amended and re-enacted by 4 Edw. VII. ch. 15, sec. 7, applied; and, when sub-sec. 8 is read in conjunction with sub-sec. 6 of sec. 151, as amended by 1 Edw. VII. ch. 21, sec. 2, sub-sec. 7, and by 3 Edw. VII. ch. 15, sec. 6, the effect is, that, if there is no survivor of the preferred beneficiaries named in the certificate, the insurance shall be for the benefit in equal shares of the surviving children of the assured, and, if there are no surviving children, it shall form part of the estate of the assured.—*Held*, also, that the words “his wife” in the certificate meant the person who was his wife at the date of the certificate: 7 Edw. VII. ch. 36, sec. 5.—*Held*, also, that grandchildren of the assured were excluded from benefit by the express provision as to surviving children. *Re Sons of Scotland Benevolent Association and Davidson*, 2 O.W.N. 200.—TEETZEL, J. (Chrs.)

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Information—Failure to Proceed upon—Offences Known to the Law—Order Nisi—Criminal Code, sec. 655—Amendment—New Procedure.]—It is an offence at common law for a magistrate wrongfully to exact moneys for his own use and benefit. *Regina v. Tisdale*, 20 U.C.R. 272, followed.—It is an offence both at common law and by statute (Criminal Code, secs. 466, 470 (a), (c), (d)) for a magistrate falsely to insert in a warrant drawn up and issued by him a certain statement with knowledge of its falsity.—Where a magistrate takes an information, it is usual for him to issue a summons or warrant for the accused; and, if the magistrate declines to do either or take any proceedings, his course requires explanation; and where this appears an order call-

ing upon him to shew cause why he should not proceed will be granted.—Upon the return of an order *nisi* granted in these circumstances, it appeared that neither party had observed the amendment made to sec. 655 of the Criminal Code by 8 & 9 Edw. VII. ch. 9, sec. 2; and the order was neither made absolute nor discharged, but was retained in order to enable the complainant to produce his witnesses before the magistrate, and the magistrate to pass upon the matter in the light of the evidence. *Re Rex v. Graham*, 2 O.W.N. 326, 463.—RIDDELL, J.

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2. Purchaser at Tax Sale—Certificate of Title Subject to Mechanic's Lien—Powers of Master of Titles under sec. 68—Order of Court—Costs. *Re Clendenan*, 2 O.W.N. 750.—RIDDELL, J. (Chrs.)
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1. Agreement for Lease—"Option" for Further Term—"Option" of Purchase—Assignment by Lessee of Interest under Agreement—Assignment by Lessor of Reversion—Rights of Assignees—Interest in Land—Notice—Legal Estate—Equitable Rights—32 Hen. VIII. ch. 34. *Rogers v. National Drug and Chemical Co.*, 2 O.W.N. 763, 23 O.L.R. 234.—RIDDELL, J.
2. Distress for Rent—Illegal Distress—Building Regarded as Chattel—Intention of Parties—Notice and Appraisal—Special Damage. *Blanshard v. Bishop*, 2 O.W.N. 996.—LATCHFORD, J.

3. Distress for Rent—Illegal Distress—Circumstances Aggravating Trespass—Punitive Damages. *Summers v. Blair*, 2 O.W.N. 1374.—D.C.
4. Distress for Rent—Seizure under Chattel Mortgages—Allegation that Nothing Due—Sale without Proper Advertisement—Question of Account—Right of Mortgagee to Seize—Alleged Collateral Agreement—Reference at Trial—Questions of Fraud and Forgery first Raised before Referee—Findings of Fact by Referee not Supported—Evidence—Damages—Further Directions—Costs—Proper Form of Report. *Neal v. Rogers*, 2 O.W.N. 1107.—MIDDLETON, J.
5. Lease—Termination—Temporary Occupation—Eviction—Surrender by Act and Operation of Law—Statute of Frauds—Intention. *Mickleborough v. Strathy*, 2 O.W.N. 537, 23 O.L.R. 33.—D.C.
6. Lease not in Writing—Dispute as to Length of Tenancy—Statute of Frauds—Evidence—Onus. *Galbraith v. Connell Anthracite Mining Co.*, 2 O.W.N. 615.—FALCONBRIDGE, C.J. K.B.
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8. Overholding Tenant—Prohibition. *Re Pepall and Broom*, 2 O.W.N. 1275.—RIDDELL, J. (Chrs.)
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 8. Real Property Limitation Act, R.S.O. 1897 ch. 133, secs. 4, 5, 8—Adverse Possession—Dispossession—Discontinuance of Possession—Exclusion of True Owner—Maintenance of Roof above Strip of Land Claimed—Acquisition of Title by Possession, Subject to Easements—Entries by True Owner Attributable to Easement of Access. *Rooney v. Petry*, 2 O.W.N. 113, 22 O.L.R. 101.—RIDDELL, J.
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2. Hotel-keeper—Tavern License—“Quantities of less than One Quart”—One Sale or Two Sales—Evidence—R.S.O. 1897 ch. 245, sec. 2, clause 2. *Rex v. Trainor*, 2 O.W.N. 398.—D.C.

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4. Justice's Conviction for Second Offence in Absence of Defendant—Inquiry as to First Offence—Construction of sec. 101—R.S.O. 1897 ch. 90, sec. 2—Criminal Code, sec. 718. *Rex v. Coote*, 2 O.W.N. 6, 229, 22 O.L.R. 269.—MIDDLETON, J. (Chrs.).—C.A.
5. Justice's Conviction for Selling without License—Evidence to Support—Information—Form of—Informant or Witness not Examined on Oath—Information and Belief—Costs of Conveying to Gaol not Provided for—Secs. 72 and 89 of Act—Imprisonment at Hard Labour—Power to Impose. *Rex v. Whitney*, 2 O.W.N. 1491.—TEETZEL, J. (Chrs.)
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2. Foreign Domicile—Lands in Ontario—Terms of Order Declaring Lunacy. *Re Carr*, 2 O.W.N. 680.—MIDDLETON, J. (Chrs.)
3. Guardian ad Litem—Motion to Appoint—Notice of Application. *Bank of Ottawa v. Bradfield*, 2 O.W.N. 1014.—SUTHERLAND, J. (Chrs.)
4. Inspector of Prisons and Public Charities—Statutory Committee—Action for Partition Brought in Name of Lunatic as Plaintiff—R.S.O. 1897 ch. 317, sec. 56—Effect of Lunatic Recovering—Subsequent Proceedings by Inspector—Registration of Judgment—Cancellation—Dismissal of Action—Costs. *McCabe v. Boyle*, 2 O.W.N. 695.—RIDDELL, J.
5. Issue as to Lunacy—Inquiry as to Mental Condition—Further Evidence Directed to be Taken by Court—Improvident Alienation of Property—Failure of Memory as to Important Transactions and Recent Occurrences—Lack of Capacity to Understand or Manage Business—Delusions—Senile Deterioration—Evidence of Medical Experts—Appointment of Separate Committees of Person and Estate—Jurisdiction of Appellate Court—Lunacy Act, sec. 7 (7)—Con. Rule 498—Costs. *Re Fraser, Fraser v. Robertson, McCormick v. Fraser*, 2 O.W.N. 241, 597, 1321, 24 O.L.R. 222.—BRITTON, J.—D.C.

6. Maintenance in Public Asylum—"Property" of Lunatic—Right under Will to be Maintained on Farm—Action by Inspector of Prisons and Public Charities—R.S.O. 1897 ch. 317, secs. 47, 48—Right to Dower—Election to Take Benefits under Will—Maintenance of Lunatic during Lifetime of Husband—Claim for Payment—Amendment—Statute of Limitations—Costs of Action Improperly Brought. *Inspector of Prisons and Public Charities v. Macdonald*, 2 O.W.N. 289.—LATCHFORD, J.
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2. Injury to Servant—Negligence—Workmen's Compensation for Injuries Act—Notice of Injury—Fall Caused by Slippery Condition of Timber—Lack of Proper Protection—

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3. Injury to Servant—Action under Workmen's Compensation for Injuries Act—Negligence of Fellow-servant—Person in Position of Superintendence—Railway—Trial—Questions Left to Jury—Answers of Jury—Voluntary Assumption of Risk—Refusal of Trial Judge to Put Question—Discretion. *Brulott v. Grand Trunk Pacific R.W. Co.*, 2 O.W.N. 1277, 24 O.L.R. 154.—C.A.
 4. Injury to Servant—Workmen's Compensation for Injuries Act—Gangway Widened by Stranger and Left in Unsafe Condition—Absence of Knowledge by Master—Appeal—Reversal of Finding of Fact.]—The judgment of MEREDITH, C.J.C.P., 1 O.W.N. 689, was reversed upon the facts. *Christie v. Richardson*, 2 O.W.N. 42.—D.C.
 5. Injury to Servant—Negligence—Finding of Jury—Evidence—Negligence of Fellow-servant not in Superintendence. *Davidson v. Toronto R.W. Co.*, 2 O.W.N. 382.—D.C.
 6. Injury to Servant—Negligence—Defective System—Answers of Jury—Common Law and Statute. *Holdaway v. Perrin*, 2 O.W.N. 1055, 1346.—FALCONBRIDGE, C.J.K.B.—D.C.
 7. Injury to and Death of Servant—Workman in Factory—Findings of Jury—Defective Method of Adjusting Belt—Workmen's Compensation for Injuries Act—Damages. *Kirkby v. Briggs*, 2 O.W.N. 1511.—D.C.
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2. Failure of Contractor to Complete Work—Amount Due by Owner—Method of Ascertaining—Cost of Completion—Evidence—"In such Manner as the Architect may Direct" Rulings of Architect—Liens of Wage Earners—Twenty per Cent. of Value of Work Done—Right of Owner to Resort to, for Damages Sustained by Contractor's Breach of Contract—Amount Payable to Contractor—Rights of Lien-holders—Costs. *Farrell v. Gallagher*, 2 O.W.N. 635, 23 O.L.R. 130.—D.C.
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1. Assignment—Covenant—"Good and Valid Security"—Verbal Warranty—Whole Agreement in Written Document. *Toffey v. Stanton*, 2 O.W.N. 1210.—MIDDLETON, J.
2. Interest post Diem—Accounts Rendered including Interest at Mortgage Rate without Provision therefor—Mistake in Law of both Parties—Payment of Lump Sums—Application by Mortgagee—Interest Act—"Liability"—Judgment on Further Directions—Costs. *Kerr v. Colquhoun*, 2 O.W.N. 521.—MIDDLETON, J.
3. *Interest post Diem—Compound Interest—Account—Rests—Construction of Mortgage Deed—Items of Account—Surcharge—Special Allowances—Costs.*]—Upon appeal from an order of a Judge varying the report of the Master upon taking a mortgage account:—*Held*, (1) upon consideration of all the provisions of the mortgage-deed, that the mortgage was in such form that the mortgaged property could not be taken out of the hands of the mortgagees without payment of the principal and all interest; and the Master should have allowed interest compounded half-yearly both before and after the maturity of the mortgage. *Economic Life Assurance Co. v. Osborne*, [1902] A.C. 147, 154, followed.—(2) That the onus of establishing surcharges of the mortgagees' account was upon the parties surcharging; they were bound to establish their claim beyond reasonable doubt; and they had not, upon the evidence, established it as to two items of \$4,600 and \$3,279.22.—(3) That as to certain sums allowed by the Master against the mortgagees, upon which his rulings were affirmed by the Judge, there was no reason for reversing the Master's decision. Judgment of TEETZEL, J., 1 O.W.N. 228, affirmed; MEREDITH, J.A., dissenting as to part. *Saskatchewan Land and Homestead Co. v. Leadlay*, 2 O.W.N. 1.—C.A.
4. Mortgagee in Possession—Account—Reference—Repairs to Mortgaged Property—Commission Received by Agents from Contractors—Mortgagee Charged with, in Account—Alleged Custom of Agents. *Toronto General Trusts Corporation v. Robins*, 2 O.W.N. 1023.—SUTHERLAND, J.
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- penditure for Rebuilding—Improvements—Lien—Agreement. *Patterson v. Dart*, 2 O.W.N. 429.—D.C.
6. Redemption—Assignment of Equity by Mortgagor to Assignee for Creditors—Right of Wife as Dowress and Surety—Offer to Redeem after Binding Contract of Sale Made by Mortgagee—Power of Sale—Receipt—Sufficiency as Memorandum—Statute of Frauds—Authority of Agent—Ratification—Effect of Foreclosure Decree. *Standard Realty Co. v. Nicholson*, 2 O.W.N. 1189, 24 O.L.R. 65.—RIDDELL, J.
7. *Sale under Power—Action to Set aside—Notice of Sale—Defects in—Reasonable Efforts to Prevent Sacrifice—Sufficiency of Price Obtained—Offer to Redeem—Tender—Purchaser Unwilling—Binding Agreement.*]—In an action by a second mortgagee to set aside a sale made by the first mortgagee under the power of sale contained in his mortgage-deed:—*Held*, that the terms of the power warranted a sale, and that the terms were complied with by the notice served.—One error alleged was, that the notice of sale was directed to the plaintiff personally, instead of as executor of M., in which capacity he took the mortgage:—*Held*, that this error was not fatal, the plaintiff not being misled, and no harm having resulted. *Bartlett v. Jull*, 28 Gr. 140, distinguished.—*Held*, also, that, as the plaintiff had notice of the mortgage under which the notice was given, when he took his own mortgage, and was not misled, the notice was good, notwithstanding that it recited the mortgage as made in 1909, instead of 1906, by a clerical error.—*Held*, also, that the notice served on the mortgagor would be sufficient, were he complaining on his own behalf; but, he was not, and the plaintiff could not complain for him, having himself received sufficient notice.—*Held*, also, that the first mortgagee had taken reasonable means to prevent a sacrifice of the property and for obtaining the best available price; and the evidence did not shew that the price was inadequate.—The plaintiff, on the day of the sale, called on the purchaser and offered him the amount of his deposit and \$25 for his trouble, and also made a legal tender to the first mortgagee of the amount due to him. The tender was made at a time when both the vendor (the first mortgagee) and the purchaser were bound by the agreement of sale which had been made. The vendor

- was willing to cancel the sale and permit the plaintiff to redeem, but the purchaser would not forgo his bargain:—*Held*, that he could not be compelled to do so. *Kenney v. Barnard*, 2 O.W.N. 470.—SUTHERLAND, J.
8. Sale under Power—Default—Interest—Payment to Mortgagee of Compensation-money for Part of Premises—Application on Principal Debt. *Rowe v. Cross*, 2 O.W.N. 58.—MIDDLETON, J.
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10. Mortgage—Security for Maintenance—Lease of Farm. *Dymont v. Howell*, 2 O.W.N. 28.—D.C.
- See Appeal, 13—Company, 19, 27—Fraudulent Conveyance—Husband and Wife, 5, 6, 7—Interpleader, 1—Pleading, 7—Railway, 7—Succession Duty—Timber, 1—Trespass, 3—Will, 24, 27, 41.

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2. By-law—Motion to Quash—Admitted Illegality—Costs—Alleged Misconduct of Applicant not Connected with Illegality—Application to Ontario Railway and Municipal Board—Approval of By-law by Ratepayers—Proposed Validating Act of Legislature—Refusal to stay Judgment on Motion. *Re Davis and Village of Beamsville*, 2 O.W.N. 423.—RIDDELL, J.
3. By-law—Motion to Quash—Consent of Council—Limitation of Power of Court to Quash—Jurisdiction. *Re Angus and Widdifield*, 2 O.W.N. 723, 23 O.L.R. 479.—D.C.

4. By-law Authorising Expenditure on Roads in Territory soon to be Annexed by Town—Approval by Electors—Unreasonableness—Motion to Quash—Municipal Act, 1903, sec. 338 (2)—Posting Copies of By-law in Public Places—Duty of Council—Selection of Places—Delegation to Reeve—Preservation of Evidence of Posting—Costs. *Re Angus and Township of Widdifield*, 2 O.W.N. 1376, 24 O.L.R. 318.—D.C.
5. By-law Authorising Town Corporation to Guarantee Payment of Debentures of Industrial Company—Bonus—Assent of Ratepayers—Municipal Act, 1903, secs. 366a, 384, 591a. *Re Holmsted and Town of Seaforth*, 2 O.W.N. 464.—MULOCK, C.J.Ex.D.
6. By-law Licensing and Regulating Billiard Tables—License Fee—Prohibitive Amount—Motives of Members of Council—License Fee Imposed for Revenue Purposes. *Re Foster and Township of Raleigh*, 2 O.W.N. 65, 305, 22 O.L.R. 26, 342.—MIDDLETON, J.—D.C.
7. By-law Limiting Number of Tavern Licenses in Township to One—Liquor License Act, secs. 18, 20—Municipal Act, sec. 330—Trade—Monopoly—Bona Fides. *Re McCracken and Township of Sherborne*, 2 O.W.N. 601, 23 O.L.R. 81.—D.C.
8. Closing of Part of Street—Injury to Property not Abutting on—Municipal Act, sec. 447—Property “Injuriouslly Affected”—Compensation—Special Injury—Depreciation. *Re Taylor and Village of Belle River*, 2 O.W.N. 387.—C.A.
9. Contract for Construction of Pavement on Highway—Petition of Frontagers—Signatures—Authority of Husband to Sign for Wife—Names Struck off by County Court Judge—Finality of Decision—Right of Court to Inquire into—Signatures Obtained by Misrepresentations—Evidence—Awarding of Contract by City Council—Powers of Board of Control—Municipal Act, 1903, sec. 277—Guarantee of Life of Pavement—9 Edw. VII. ch. 73, secs. 35—Monopoly—Absence of Fraud—Contract Let without By-law—Opposition to Petition—Rights of Property-owners. *Brundle v. City of Toronto*, 2 O.W.N. 35.—CLUTE, J.
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- by Drainage Referee—Restoration by Court of Appeal—Assessment for Outlet Liability. *Re City of Stratford and Townships of South Easthope and Downie*, 2 O.W.N. 388.—C.A.
12. Drainage—Repair of Old Drain—Agreement with Landowner—Injury to Land—Trespass—Leave and License—By-law—Sufficiency of Outlet. *McLaughlan v. Township of Plympton*, 2 O.W.N. 845.—C.A.
 13. Expropriation of Land—By-law—Opening of Road—Compensation for Land Taken—Award—Enforcement—Absence of By-law Adopting Award—Municipal Act, 1903, sec. 463—Issue and Sale of Debentures—Registration of By-law—Municipal Act, secs. 396, 399—Interest on Damages for Lands Injurious Affected—Mandamus to Corporation to Raise Money to Pay—Amount of Award. *Re Usher and Town of North Toronto*, 2 O.W.N. 851.—CLUTE, J. (Chrs.)
 14. Local Improvements—Construction of Sidewalks—Necessity of By-law—Municipal Act, 1903, secs. 664-679. *McLean v. Town of Sault Ste. Marie*, 2 O.W.N. 41.—MIDDLETON, J.
 15. Local Option By-law—Voting—Ballot not in Prescribed Form—Alleged Misleading Effect. *Re Milne and Township of Thorold*, 2 O.W.N. 1157.—D.C.
 16. Local Option By-law—Voting—Irregularities in Conduct of Voting—Violation of Provisions as to Secrecy—Interference with Voters—Permission of Canvassing—Ballots Taken out of Polling Place—Alleged Custom—Substantial Violation of secs. 145, 168, 169, 170, 173, 174, and 198 of Municipal Act—Irregularities not Cured by Application of sec. 204 of Act. *Re Quigley and Townships of Bastard and Burgess*, 2 O.W.N. 1047.—SUTHERLAND, J.
 17. Local Option By-law—Voting—Three-fifths Majority—Computation—Scrutiny by County Court Judge—Finality of Voters' List—Right of County Court Judge to Inquire into Qualification of Voters—Effect of Change of Residence—Prohibition—Inquiry Directed as to how Rejected Ballots Marked. *Re West Lorne Scrutiny*, 2 O.W.N. 1038, 23 O.L.R. 598.—MIDDLETON, J.
 18. Local Option By-law—Voting—Inquiry into Validity of Votes—Vote of Clerk—Residence—Abandonment of, What

- Constitutes—Constructive Residence—Animus Revertendi—Irregularities—Curative Provisions of sec. 204 of Municipal Act—Laches and Acquiescence—Duty of Court to Ascertain how Bad Ballots Marked. *Re Sturmer and Beaverton*, 2 O.W.N. 1116, 1227, 24 O.L.R. 65.—MIDDLETON, J.—D.C.
19. Local Option By-law—Voting—Vote of Clerk—Residence.—What Constitutes—Hearsay Evidence—Ubi Uxor ibi Domus—Farmer's Son—9 Edw. VII. ch. 26, sec. 6 (2)—Municipal Act, 1903, secs. 86 (1), 113. *Re Fitzmartin and Newburg*, 2 O.W.N. 1114, 1177, 24 O.L.R. 102.—MIDDLETON, J.—D.C.
20. Local Option By-law—Voting—Day Fixed for Taking Vote more than Five Weeks after First Publication of By-law—Publication in Newspaper in Neighbouring Municipality—Copies of By-law not Posted in Four Public Places—Municipal Act, 1903, sec. 338 (1)—Ballot Box not Provided with Lock and Key—Sec 138 (2) of Act—Secrecy and Security of Receptacle Used—Irregularity Cured by sec. 204. *Re Wilson and Village of Wardsville*, 2 O.W.N. 914.—SUTHERLAND, J.
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22. Local Option By-law—Voting—Ballot not in Prescribed Form—Alleged Misleading Effect—Use of Similar Ballot in Voting on Another By-law—Evidence—Result of Voting not Affected—Liquor License Act, sec. 141 (8)—8 Edw. VII. ch. 54, sec. 10. *Re Milne and Township of Thorold*, 2 O.W.N. 1009.—SUTHERLAND, J.
23. Local Option By-law—Voting—Declaration by Clerk—Scrutiny by County Court Judge—Motion to Quash By-law—Inquiry into Validity of Votes—Illiterate Voters—Ballots Marked by Deputy Returning Officers—Municipal Act, 1903, sec. 171—Secrecy of Voting—Names Improperly on Voters' List—Voters' Lists Act, sec. 24—Finality of List—Clerk Acting as Deputy Returning Officer—Vote of Clerk—Irregularities—Curative Provisions of sec. 204. *Re Ellis and Town of Renfrew*, 2 O.W.N. 27, 838, 23 O.L.R. 427.—C.A.

24. Local Option By-law—Voting—Voters' List Certified by County Court Judge—Ontario Voters' Lists Act—Complaint—Notice of Holding Court—Duty of Clerk—Irregularities—Curative Clause of Statute, sec. 204. *Re Ryan and Town of Alliston*, 2 O.W.N. 161, 22 O.L.R. 200.—D.C. (See also 2 O.W.N. 841.—C.A.)
25. Money By-law—Voting on—Voters' List—Finality—Voters' Lists Act, sec. 24—List Prepared by Clerk from Assessment Roll—Persons Entitled to Vote—Freeholders—Leaseholders—Municipal Act, 1903, secs. 348, 349, 353, 354—Unqualified Voters—Persons in Possession of Land under Agreements of Sale—Inquiry into Right to Vote of Persons Named on List—Motion to Quash By-law. *Re Dale and Township of Blanchard*, 2 O.W.N. 574, 23 O.L.R. 69.—C.A.
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 7. Sale of Air-gun to Minor—Injury to Person—Duty—Liability—Criminal Code, sec. 119—Jury—Judge's Charge. *Fowell v. Grafton*, 2 O.W.N. 460, 22 O.L.R. 550.—D.C.
 8. *Street Railway—Injury to Person Driving Waggon on Track—Contributory Negligence—Primary Negligence—Ultimate Negligence—Findings of Jury—Proper Result of.*—In an action for damages for injury to the plaintiff by a collision between a laden waggon driven by the plaintiff and an electric street car of the defendants, the plaintiff alleged negligence in the operation of the car and the defendants alleged negligence on the part of the plaintiff. The jury found in answer to questions: (1) that the motorman was guilty of negligence which caused the accident to the plaintiff; (2) that the negligence was, not stopping in time; (3) and (4) that the plaintiff was guilty of contributory negligence, which consisted in "being or driving upon the tracks;" and (5) that both the motorman and the plaintiff were guilty of negligence, but that the motorman had ample time to stop

the car:—*Held*, that the result of the answers of the jury was to find no primary negligence, but a breach of the new duty arising upon discovery of the plaintiff's negligence and consequent peril: this would have been ultimate negligence if there had been primary negligence; but it was sufficient to found an action apart from primary negligence.—*Held*, also, that, assuming in the defendants' favour that the answer of the jury as to contributory negligence meant "being and remaining upon the tracks in view of the near approach of the car," this might or might not afford an answer to the claim: if the plaintiff became aware that the car was approaching and was able to avoid the danger, his duty was to avoid it; and, failing to do so, he was the author of his own damage; but this was a question for the jury, and upon them devolved the duty of ascertaining the real cause of the injury—and this, by the answers to the 1st and 5th questions, they had found to be the defendants' negligence. And, therefore, the judgment for the plaintiff should be affirmed. *Sim v. City of Port Arthur*, 2 O.W.N. 864.—D.C.

9. Unguarded Hole in Floor of Furnace-room in School Building—Injury to Person Having Business in Building—Contributory Negligence. *Shaw v. St. Thomas Board of Education*, 2 O.W.N. 510, 1467.—FALCONBRIDGE, C.J.K.B.—C.A.
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1. *Counterclaim—Default of Defence—Noting of Pleadings as Closed—Motion for Judgment on Counterclaim—Contract for Sale of Land—Specific Performance—Rescission—Defence and Counterclaim on same Grounds—Practice—Trial—Costs.*]—In an action by the vendor for specific performance of a contract for the sale and purchase of land, the plaintiff, by his statement of claim, set out the contract in terms, by which it appeared that the defendant had paid \$50 of the price as a deposit at the date of sale. The defendant set up various defences, exculpating himself from delay or blame for non-completion, and asked for rescission of the contract and a return of the deposit. He then pleaded, by way of counterclaim, that, as the plaintiff was in default, the deposit should be returned and made a charge on the land. The plaintiff did not deliver a defence to the counterclaim, and it was noted *pro confesso*, and upon motion to the Court judgment was given for a return of the deposit, the plaintiff's claim remaining to be tried:—*Held*, that the so-called counterclaim was in substance part of the defence to the claim, and the whole case was ripe for trial without any further pleading. The note *pro confesso* and the judgment based thereon were vacated, upon appeal from that judgment, without costs. *Smith v. Ransom*, 2 O.W.N. 921.—D.C.
2. Counterclaim—Exclusion—Action for Defamation—Unconnected Counterclaim on Bills of Exchange. *Sill v. Alexander*, 2 O.W.N. 23.—MASTER IN CHAMBERS.
3. Counterclaim—Particulars. *Gold Fields Limited v. Harris Maxwell Co.*, 2 O.W.N. 1391.—MIDDLETON, J. (Chrs.)
4. Reply—Embarrassment—Fire Insurance—Appraisal—Invalidity—Grounds for—Amendment—Particulars. *Great Northern Elevator Co. v. Manitoba Assurance Co.*, 2 O.W.N. 926.—MASTER IN CHAMBERS.
5. Reply—Third Parties—Service of Notice—Statement of Defence of Third Parties—Reply of Defendant—Departure—Amendment—Costs. *Holmes v. Mowery*, 2 O.W.N. 613.—MASTER IN CHAMBERS.
6. Statement of Claim—Amendment—Embarrassing Issue. *Harris Maxwell Co. v. Gold Fields Limited*, 2 O.W.N. 1390.—MIDDLETON, J. (Chrs.)

7. Statement of Claim—Colourable Sale at Undervalue by Mortgagee—Parties. *Bank of Commerce v. Fitzgerald*, 2 O.W.N. 951.—MASTER IN CHAMBERS.
8. Statement of Claim—Contract—Construction—Specific Performance—Relevancy of Allegations. *Shumer v. Todd*, 2 O.W.N. 645.—MASTER IN CHAMBERS.
9. Statement of Claim—Disclosing no Reasonable Cause of Action—Striking out—Leave to Amend—Company—Shareholder—Costs. *David v. Ryan*, 2 O.W.N. 322.—RIDDELL, J.
10. Statement of Claim—Joinder of Causes of Action—Will—Executrix—Maintenance—Parties—Con. Rule 235. *Foxwell v. Kennedy*, 2 O.W.N. 565, 642.—MASTER IN CHAMBERS.—BRITTON, J. (Chrs.)
11. Statement of Claim—Libel—Irrelevancy—Suggestion of Motive—Notice of Action—Striking out Parts of Pleading. *Natural Resources Limited v. Saturday Night Limited*, 2 O.W.N. 723, 802.—MASTER IN CHAMBERS.—RIDDELL, J. (Chrs.)
12. Statement of Claim—Motion to Strike out—Action by Liquidator—Leave of Master—Irregularities—Amendment—Parties—Company. *Clarkson v. Linden*, 2 O.W.N. 379, 564.—FALCONBRIDGE, C.J.K.B.—D.C.
13. Statement of Claim—Motion to Strike out—Historical Recital—Res Judicata. *Curry v. Clarkson*, 2 O.W.N. 221.—MASTER IN CHAMBERS.
14. Statement of Claim—Relevancy of Allegations—Historical Matter—Reference to Occurrences Subsequent to Matters Complained of. *Fearnside v. Morris*, 2 O.W.N. 676.—MASTER IN CHAMBERS.
15. Statement of Defence—Action against Partners—Statement of Defence in Individual Name—“Subsequent Proceedings”—Conflict of Decisions. *Arnoldi v. Hawes Gibson & Co.*, 2 O.W.N. 1019.—MASTER IN CHAMBERS.
16. Statement of Defence—Admission Caused by Misconception of Minute in Books—Motion to Withdraw and Substitute Another Defence—Excusable Mistake—Reference to Trial Judge. *Northern Sulphite v. Occidental Syndicate*, 2 O.W.N. 1015.—MASTER IN CHAMBERS.

17. Statement of Defence—Amendment—Workmen's Compensation for Injuries Act, sec. 9—Statutory Limitation—Solicitor's Slip—Costs. *Siven v. Temiskaming Mining Co.*, 2 O.W.N. 129.—MASTER IN CHAMBERS.—LATCHFORD, J. (Chrs.)
18. Statement of Defence—Embarrassment. *Turner v. Doty Engine Works Co.*, 2 O.W.N. 74.—MASTER IN CHAMBERS.
19. Statement of Defence—Embarrassment—Satisfaction—Estoppel. *Gibson v. Toronto Bolt and Forging Co.*, 2 O.W.N. 74.—MASTER IN CHAMBERS.
20. Statement of Defence—Estoppel—Amendment—Particulars. *Stuart v. Hamilton Jockey Club*, 2 O.W.N. 167.—MASTER IN CHAMBERS.
21. Statement of Defence—Irrelevancy—Embarrassment—Commission on Sale—Secret Agreement—Parties. *Turner v. Doty Engine Works Co.*, 2 O.W.N. 131.—MASTER IN CHAMBERS.
22. Statement of Defence—Particulars—Patents for Invention—Infringement—Individuality. *Duryea v. Kaufman*, 2 O.W.N. 476.—RIDDELL, J. (Chrs.)
23. Statement of Defence—Railway Construction Contract—Dispute as to Payment for an "Overhaul"—Reference to Earlier Contract—Interpretation of Contract—Discovery—Production of Documents—Relevancy—Amendment. *Macdonell v. Temiskaming and Northern Ontario Railway Commission*, 2 O.W.N. 523, 894.—MIDDLETON, J. (Chrs.)—D.C.
24. Statement of Defence—Tort—Husband and Wife—Reasonable and Probable Cause—Embarrassment. *Titchmarsh v. Burkhead*, 2 O.W.N. 304.—MASTER IN CHAMBERS.
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 2. Order Dismissing Action on Consent—Order not Authorised by Consent—Motion to Vary—When Court may Vary its Order—Con. Rule 358—Power of Appellate Court to Make Proper Order—Appeal—Leave—Con. Rule 777—Costs. *Broom v. Pepall*, 2 O.W.N. 1104, 23 O.L.R. 630.—D.C.
 3. Order Postponing Trial on Payment of Costs—Automatic Dismissal of Action on Default—Extension of Time for Payment after Default—Jurisdiction—Judge in Court—Divisional Court—Appeal—Con. Rule 353—Action, when “out of Court”—Discretion. *Strati v. Toronto Construction Co.*, 2 O.W.N. 172, 22 O.L.R. 211.—C.A.
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1. Agent for Sale of Land—Unauthorised Receipt of Purchase-money—Ratification by Vendor—Evidence and Correspondence—Adoption of Act of Agent—Action by Purchaser for Specific Performance of Contract—Payment Effected by Payment to Agent, though Money Misappropriated. *Hendry v. Wismer*, 2 O.W.N. 560.—MULOCK, C.J.Ex.D.
2. Agent's Commission on Purchase of Mine—Quantum—Evidence—Onus—Finding of Fact. *Endleman v. Rothschild*, 2 O.W.N. 25.—MIDDLETON, J.
3. Agent's Commission on Sale of Business—General Employment—Contractual Relationship—Purchaser at Lower Price than First Named—Implied Contract—Quantum Meruit. *Cronk v. Carman*, 2 O.W.N. 1027.—D.C.
4. Agent's Commission on Sale of Land—Contract—Refusal of Vendee to Carry out Contract. *Hunt v. Moore*, 2 O.W.N. 1017.—D.C.
5. Agent's Commission on Sale of Land—Introduction of Purchaser—Contract. *Robins v. Hees*, 2 O.W.N. 938, 1150.—BRITTON, J.—D.C.
6. Agent's Commission on Sale of Land—Purchaser Found by Agent—Sale Brought about by Efforts of Others—Evidence. *Sager v. Sheffer*, 2 O.W.N. 671.—D.C.
7. Agent's Commission on Sale of Patent Rights—Sale by Principal—Contract—Terms of—Expressio Unius Exclusio Alterius—Mala Fides of Principal—Damages. *Wilson v. Deacon*, 2 O.W.N. 1229.—RIDDELL, J.
8. Agreement in Writing—Assignee of Agent—Trustee for Principal of Outstanding Accounts—Commission of Agent

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9. Negligence of Agent—Fire Insurance—Breach of Warranty—Failure to Read Letters and Policies—Application—Second Statutory Condition—Reasonable Compromise. *Rudd Paper Box Co. v. Rice*, 2 O.W.N. 1417.—MEREDITH, C.J.C.P.
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2. Instrument Payable on Demand—Negotiation on Day of Date—Overdue Note—Bills of Exchange Act, secs. 70, 182. *Northern Crown Bank v. International Electric Co.*, 2 O.W.N. 286, 1200, 22 O.L.R. 339, 24 O.L.R. 57—MEREDITH, C.J.C.P.—D.C.
 3. Liability of Accommodation Makers—Note Deposited by Customer with Bank for Collection—Right of Bank to Lien for Indebtedness of Customer Arising after Maturity of Note—Right Subject to Equities between Original Parties—Bills of Exchange Act, secs. 54, 70—Evidence—Partnership Account—Failure of Consideration. *Merchants Bank v. Thompson*, 2 O.W.N. 904, 23 O.L.R. 502.—D.C.
 4. New Evidence—Suspicious Circumstances—New Trial. *Hall v. Shiell*, 2 O.W.N. 1186.—D.C.
 5. Partnership—Debt to Bank—Note Made after Incorporation of Company—Identity of Names—Knowledge by Bank of Incorporation—Liability of Partners—Estoppel—Novation. *Metropolitan Bank of Canada v. Austin and Graham*, 2 O.W.N. 868.—FALCONBRIDGE, C.J.K.B.
 6. Payment for Shares in Foreign Company—Indorsement by Officers of Company to Bank—Holder in Due Course—Title—Company not Licensed to Do Business in Ontario—Extra-Provincial Corporations Licensing Act—Effect on Title of Bank—Retroactive Effect of License Obtained before Action—Irregularities in Formation of Company—Misrepresentations. *Canadian Bank of Commerce v. Rogers*, *Canadian Bank of Commerce v. Hackwell*, *Canadian Bank of Commerce v. Simpson*, 2 O.W.N. 45, 627, 23 O.L.R. 109.—RIDDELL, J.—D.C.
 7. Procurement of Signatures of Makers by Fraud—Notice—Indemnity. *Graham v. Driver*, 2 O.W.N. 131.—D.C.
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1. Construction of sec. 72—Ejusdem Generis Rule—Noxious or Offensive Trade—“Such as may Become Offensive”—Conviction—Jurisdiction of Magistrate—Evidence. *Rex v. Barber Asphalt Paving Co.*, 2 O.W.N. 819, 1342, 23 O.L.R. 372.—TEETZEL, J. (Chrs.)—D.C.
2. Employment of Physician by Local Board of Health—Remuneration—Quantum Meruit—Action against Members of Local Board—Parties—Municipal Corporation—Local Board. *Ross v. Township of London*, 2 O.W.N. 583, 23 O.L.R. 74.—C.A.

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1. Bonds—Debenture Mortgage—Guaranty by Municipalities—Construction of Clauses as to Payment—Progress Certifi-

- cates—Engineer—Ontario Railway Act. *Re Ontario and West Shore R.W. Co.*, 2 O.W.N. 1041.—MIDDLETON, J.
2. Carriage of Goods—Conveyance of Lumber to Yards of Consignee by another Company's Line—Switching Charge Paid by Carrying Company—Right to Recover from Consignee—Tolls—Board of Railway Commissioners—Approval of Tariff—Burden of Proof. *Grand Trunk R.W. Co. v. Laidlaw Lumber Co.*, 2 O.W.N. 548.—D.C.
 3. Carriage of Goods—Delay in Transit—Delay in Giving Notice to Consignees of Arrival—Injury to Perishable Goods by Delay—Liability of Carrier—Contract Made with another Carrier—Connecting Line—Privity—Remedy of Consignees—Bill of Lading—Condition—Foreign Carrier—Damages. *Corby v. Grand Trunk R.W. Co.*, 2 O.W.N. 793, 23 O.L.R. 318.—D.C.
 4. Carriage of Live Stock—Special Contract—Approval by Board of Railway Commissioners—Injury to Persons in Charge Travelling Free, by Reason of Negligence—Liability—Indemnity by Owners and Shippers—Duty to Inform Persons in Charge—Implied Agreement to Indemnify. *Goldstein v. Canadian Pacific R.W. Co.*, *Robinson v. Canadian Pacific R.W. Co.*, 2 O.W.N. 964, 23 O.L.R. 536.—C.A.
 5. Carriage of Passengers—Loss of Passenger's Luggage—Negligence—Liability of Railway Company as Carriers—Time—*Status not Changed to that of Warehousemen.*]—The defendants' agent checked the plaintiff's luggage in advance and sent it on by an earlier train than that by which she travelled. The luggage arrived at its destination before the plaintiff arrived, and, four hours after its arrival, was destroyed by fire:—*Held*, that, even assuming that there was no negligence on the part of the defendants, the interval of four hours was not sufficient to change the status of the defendants from carriers to warehousemen, when they knew that the plaintiff was coming by another train on a later day; and the defendants were liable for the value of the luggage. *Penton v. Grand Trunk R.W. Co.*, 28 U.C.R. 367, distinguished. *Hamel v. Grand Trunk R.W. Co.*, 2 O.W.N. 1286.—D.C.
 6. Expropriation of Land—Warrant for Immediate Possession—Dominion Railway Act, sec. 217—Absence of Discretion—Hardship. *Re McCarthy and Tilsonburg, etc., R.W. Co.*, 2 O.W.N. 34.—MIDDLETON, J.

7. Injury to Passenger Alighting—Defective Step—Negligence—Findings of Jury—Finding of Negligence on Ground not Alleged—Absence of Evidence to Support—Dismissal of Action. *Hoskin v. Michigan Central R.R. Co.*, 2 O.W.N. 195.—C.A.
8. Injury to and Death of Passenger Crossing Track at Station—Negligence—Contributory Negligence—Findings of Jury—Cause of Injury—Evidence. *Antaya v. Wabash R.W. Co.*, 2 O.W.N. 991, 1175, 24 O.L.R. 88.—MIDDLETON, J.—D.C.
9. Injury to and Death of Person Crossing Track—Negligence—Evidence—Nonsuit—Findings of Jury—Liability of two Defendants. *Dunsmoor v. National Portland Cement Co.*, 2 O.W.N. 281.—FALCONBRIDGE, C.J.K.B.
10. Injury to and Death of Person Crossing Track—Highway Crossing—Neglect to Give Statutory Signals—Cause of Injury—Place where Accident Occurred—Finding of Jury—Connection between Neglect and Result—Proper Inference—Evidence. *Griffith v. Grand Trunk R.W. Co.*, 2 O.W.N. 252, 1059.—MIDDLETON, J.—C.A.
11. Injury to and Death of Persons Crossing Track—Negligence—Findings of Jury—Inefficient Head-light on Snow-plough—Absence of Statutory Signals—Evidence—Onus Excessive Speed—Unsatisfactory Verdict—New Trial—"Village," Meaning of—Railway Act of Canada, sec. 275. *Zuvelt v. Canadian Pacific R.W. Co.*, 2 O.W.N. 1063, 23 O.L.R. 602.—C.A.
12. Injury to Person Crossing Track—Dangerous Place—Negligence—Findings of Jury—Amendment. *Johnston v. Thousand Island R.W. Co.*, 2 O.W.N. 91.—FALCONBRIDGE, C.J. K.B.
13. Injury to Person on Train—Collision—Licensee or Trespasser—Negligence—Findings of Jury—Plaintiff not a Trespasser as against Railway Company Responsible for Collision. *Barnett v. Grand Trunk R.W. Co.*, 2 O.W.N. 102, 22 O.L.R. 84.—C.A.
14. Injury to and Death of Servant—Brakesman—Collision Caused by Misconduct of Crew of Train—Failure to Shew Negligence of Railway Company. *Vance v. Grand Trunk Pacific R.W. Co.*, 2 O.W.N. 489.—C.A.
15. Injury to and Death of Servant—Brakesman—Disobedience of Rules of Railway Company—Brakesman Standing on

- Track Run over by Moving Train—Way at Side of Track not Left Clear—Insufficient Packing of Frog—Findings of Jury—Proximate Cause of Injury—Dismissal of Action. *Pettigrew v. Grand Trunk R.W. Co.*, 2 O.W.N. 709.—D.C.
16. Injury to Servant—Brakesman—Switch-stand at Side of Track—Dangerous Position—Body of Brakesman Protruding from Side of Train—Negligence of Fellow-servants—Findings of Jury—Evidence—Workmen's Compensation for Injuries Act—Notice of Injury under sec. 13—Failure to Give—Reasonable Excuse—Absence of Prejudice—Damages—Ascertainment in Accordance with Statute. *Leitch v. Pere Marquette R.W. Co.*, 2 O.W.N. 617.—C.A.
17. Injury to Servant—Negligence of Foreman—Shunting by "Kick"—Care in Moving Cars—Failure to Give Notice—Finding of Jury not Sustainable on Evidence. *Lennox v. Grand Trunk R.W. Co. and Canadian Pacific R.W. Co.*, 2 O.W.N. 1078.—C.A.
18. Injury to Servant in Yard—Defective System—Negligence—Evidence—Finding of Jury. *Ward v. Canadian Northern R.W. Co.*, 2 O.W.N. 378.—FALCONBRIDGE, C.J.K.B.
19. Injury to Servant—Negligence—Contributory Negligence—Findings of Jury not Justified by Evidence—Improper Light—Excessive Speed—Actionable Negligence not Proved. *Paquette v. Grand Trunk R.W. Co.*, 2 O.W.N. 1133.—C.A.
20. Municipal Bonus—Agreement—Conditions—Fulfilment—Completion of Acquisition of Right of Way—Completion of Construction—Placing of Station—"Village," Meaning of—Unincorporated Hamlet—Acquiescence—"Proper Facilities for Shipping Cattle"—Waiver—Station-agent. *St. Mary's and Western Ontario R.W. Co. v. Township of West Zorra*, 2 O.W.N. 455.—RIDDELL, J.
21. Person Stealing Ride on Train—Order from Conductor to Get off while Train Moving—Injury—Evidence—Negligence—Findings of Jury—Former Trial—New Trial Directed by Court of Appeal—Identity of Evidence—Res Judicata. *Brown v. Canadian Pacific R.W. Co.*, 2 O.W.N. 773.—D.C.
22. Severance of Farm—Cattle-pass—Agreement with Landowner—Culvert—Substitution of Embankment—Easement

—*Prescription—Dominion Railway Act, sec. 257—Board of Railway Commissioners—Costs.*]—The plaintiff claimed to be entitled to a cattle-pass in the shape of a culvert under the defendants' railway, which ran through his farm, and sought damages for the filling of it in and the substitution for it of an embankment, and a mandatory order for the restoration of the culvert:—*Held*, that an agreement by the defendants to maintain the culvert as a cattle-pass for the use of the owners and occupiers of the farm was not made out upon the evidence. *MacKenzie v. Grand Trunk R.W. Co.*, 14 O.L.R. 671, distinguished. If an agreement were to be inferred, it would be one to maintain a cattle-pass so long as the culvert was in existence. *Canada Southern R.W. Co. v. Erwin*, 13 S.C.R. 162, referred to.—*Held*, also, that the right of passage by the culvert had not been acquired by the plaintiff as an easement by prescription. *Canadian Pacific R.W. Co. v. Guthrie*, 31 S.C.R. 155, followed.—*Held*, also, that sec. 257 of the Dominion Railway Act has no application to a structure of less than eighteen feet; and the defendants did not require the leave of the Board of Railway Commissioners for Canada to do what they had done. *Oatman v. Grand Trunk R.W. Co.*, 2 O.W.N. 21.—MEREDITH, C.J.C.P.

23. Severance of Farm—Undergrade Crossing—Conveyance of Right of Way by Land-owner—Consideration—Agreement—Maintenance of Crossing—Right to Continuance—User for Twenty Years—Easement—Presumption of Lost Grant—Damages. *Leslie v. Pere Marquette R.W. Co.*, 2 O.W.N. 1316, 24 O.L.R. 206.—CLUTE, J.

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1. Place of—Motion to Change—Trial—Con. Rule 529 (b)—Convenience—Expense—Costs. *Crain v. Bull*, 2 O.W.N. 48.—MASTER IN CHAMBERS.

2. Stay—Delay—Death of Defendant—Institution of New Action—Non-payment of Costs—Reference not to Proceed till Cost Paid—Offer of Settlement. *Hull v. Allen*, 2 O.W.N. 897.—SUTHERLAND, J. (Chrs.)

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Settlement of Claim for Damages—Improvident Release—Inadequate Consideration—Undue Influence—Parties not on Equal Terms. *Gissing v. Eaton*, 2 O.W.N. 1021.—D.C.

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1. Action for Price—Counterclaim—Interest. *Gunn v. Miller*, 2 O.W.N. 428.—D.C.
2. Action for Price—Counterclaim for Breach of Contract—Terms of Contract—Property not Passing—Right of Purchaser to Damages—General Damages—Special Damages—Warranty—Traction Engine—“Rebuilt”—Evidence—Findings of Jury. *New Hamburg Manufacturing Co. v. Webb*, 2 O.W.N. 588, 23 O.L.R. 44.—D.C.
3. Action for Price—Fare Boxes Supplied by Plaintiffs—Faulty Construction—Repairs—Extras—Conflicting Evidence. *Banfield v. Toronto R.W. Co.*, 2 O.W.N. 1344.—TEETZEL, J.
4. *Conditional Sale—Title Remaining in Vendors—Name Affixed to Goods—Resale by Purchaser—Price not Paid to Vendors—R.S.O. 1897 ch. 150—Agency of Purchaser—Onus—Estoppel—Ratification—Assignment of Book-debts—Laches—Demand—Conversion—Damages.*]—The plaintiffs arranged with S. to “handle their goods”—carriages which they manufactured; S. was a manufacturers’ agent. S. placed an order with the plaintiffs for buggies, intending to sell them, as the plaintiffs knew. The order was in writing, signed by S.; terms of payment were specified, and it was agreed that the title in the property should not pass until payment. Buggies were supplied by the plaintiffs to S., on each of which there was a plate having the name of the plaintiffs stamped thereon. The defendants bought two of the buggies, which had, in addition to the name of the plaintiff, the words “Mfd. for J. A. S.,” etc., stamped upon plates furnished by the plaintiffs—but the one of the defendants who did the actual buying could not read. S. got value for the buggies, but did not pay the plaintiffs. He afterwards assigned his book-debts to the plaintiffs. A note for part of the price of the buggies was given by the defendants and was afterwards paid, but the plaintiffs did not get the amount or any part of

it. The plaintiffs claimed the value of the buggies as damages:—*Held*, that S. was not shewn to be the agent of the plaintiffs; and, therefore, R.S.O. 1897 ch. 150 did not assist the defendants.—While a Judge or jury may disbelieve any witness in whole or in part, the evidence disbelieved does not justify a finding of the contrary of what is sworn to; and, if the evidence that the transaction was a sale was disbelieved, there was nothing to shew agency.—The onus was on the defendants to prove that the property passed out of the plaintiffs or that in some way they became disentitled to the buggies; and they did not shew that the property was diverted by shewing that the plaintiffs supplied S. with plates having his name on to affix to the buggies. *Walker v. Hyman*, 1 A.R. 345, followed.—Nor were the plaintiffs estopped; for the purchasers did not know of the existence of the plates. *Dominion Express Co. v. Maughan*, 21 O.L.R. 510, and *Scarf v. Jardine*, 7 App. Cas. 345, followed.—*Held*, also, that the assignment by S. was not a ratification by the plaintiffs of the sale; nor was there any estoppel as to this; nor were the plaintiffs affected by laches.—Judgment of the Judge of the County Court of the County of Simcoe reversed; but his provisional assessment of damages adopted. *Dominion Carriage Co. v. Wilson & Humphries*, 2 O.W.N. 214.—D.C.

5. *Contract—Manufacture and Sale of Specific Articles—Sale by Description—Implied Warranty—Fitness for Purpose—Defects—Damages.*—The defendants, who were contractors for railway construction, requiring for that purpose a quantity of pipes suitable for culverts, ordered them from the plaintiffs, who were manufacturers. The plaintiffs supplied the pipes, which were accepted and used by the defendants, but which proved to be of no use because not properly vitrified and salt-glazed:—*Held*, that the sale was one by description; and, if the articles tendered did not conform to the description, the defendants were not bound to accept delivery; but, as they had been received and used without objection, the defendants, in an action for the price, must rely upon their other rights in the nature of warranties.—And *held*, that there was an implied warranty that the articles should be reasonably fit for the purpose to which they were to be applied; and the further warranty that the pipes were to be vitrified and salt-glazed—that is,

- properly and sufficiently so—and this, upon the delivery and acceptance, ceased to be a condition and assumed the character of a warranty, at least as to latent defects. *Jones v. Just*, L.R. 3 Q.B. 197, followed.—And *held*, upon the evidence, affirming the judgment of FALCONBRIDGE, C.J.K.B., 1 O.W.N. 699, that the defendants had established a breach of the warranties, and were entitled to have the action for the price of the goods dismissed and to recover damages on their counterclaim. *Ontario Sewer Pipe Co. v. Macdonald*, 2 O.W.N. 483.—C.A.
6. Fraud—Automobile—Invalid Promissory Notes Given in Payment for. *Patterson v. Dodds*, 2 O.W.N. 1054.—MIDDLETON, J.
 7. Manufactured Articles—Written Contract not Containing Entire Agreement—Goods Supplied not Suitable for Intended Purpose—Implied Condition or Warranty of Fitness—Intention and Understanding of Parties—Collateral Contract—Knowledge—Acceptance. *Canadian Gas Power and Launches Limited and MacKay v. Orr Bros. Limited*, 2 O.W.N. 1070, 23 O.L.R. 616.—C.A.
 8. Orders for Future Delivery of Grain—Condition Alleged by Purchaser—Finding of Jury—Contract—Statute of Frauds—Memorandum in Writing—Correspondence—Refusal to Accept—Time of Breach—Damages. *Hay v. Dominion Milling Co.*, 2 O.W.N. 457.—MEREDITH, C.J.C.P.
 9. Refusal to Accept—Inferiority—Abatement in Contract-price—Costs. *Tasker v. McDougall*, 2 O.W.N. 471.—D.C.
 10. Warranty—Canned Fish—Express Warranty—Additional Implied Warranty—Fitness for Human Food—Breach—Damages—Third Parties—Claim against Cannery for Indemnity—Undertaking to Protect Vendor—Exclusion of Implied Warranty. *Grocers' Wholesale Co. v. Bostock*, 2 O.W.N. 144, 22 O.L.R. 130.—RIDDELL, J.
 11. Warranty of Horse—Condition—Return if Horse not as Warranted—Death of Horse from Accidental Cause—Title—Risk of Loss—Evidence as to Compliance with Warranty. *May v. Conn*, 2 O.W.N. 604, 23 O.L.R. 102.—D.C.
 12. Written Contract—Purchaser Induced to Sign by Oral Promise of Vendor—Return of Goods as not Answering Condition as to Value—Parol Testimony to Shew Promise and

Condition—Inconsistency with Written Instrument—Printed Form of Contract—Clause Providing that whole Agreement Contained therein—Representation as to Value—Reliance on by Purchaser—Vendor's Knowledge of Falsity—Fraud—Enforcement of Contract. *Long v. Smith*, 2 O.W.N. 631, 23 O.L.R. 121.—D.C.

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See Costs, 3-8—Fraud and Misrepresentation, 1.

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SCHOOLS.

1. Continuation School—Erection of School-house—Township By-law—9 Edw. VII. ch. 90, sec. 9; ch. 91, sec. 4. *Re Henderson and Township of West Nissouri*, 2 O.W.N. 152, 529, 23 O.L.R. 21.—MIDDLETON, J.—D.C.

2. *Public School—Religious Instruction Given by Teacher after School-hours—Resolutions of Board of Trustees—Regulations of Education Department—Construction—Public Schools Act, sec. 8 (1), (2)—Teacher Acting as Representative of Parish Priest—Exclusive Privilege.*]—Under one of the regulations (15) for the government of public schools, made pursuant to sec. 4 of the Education Department Act, 1 Edw. VII. ch. 38 (O.), school trustees have power to change the hour of opening or closing the school, provided that the hours for study are not made less than five per day; and a resolution providing that a school should be closed at 3.30 p.m., when it opened at 9, is valid, although made for the purpose of giving the half hour from 3.30 to 4 to instruction in the Roman Catholic catechism.—*Held*, also, that it was not contrary to the Public Schools Act, 9 Edw. VII. ch. 84 (O.), nor to the regulations, that the teacher of a public school should, as the representative of the Roman Catholic priest of the parish in which the school was situated, give religious instruction to the Roman Catholic children after school-hours. *Shaver v. Cambridge and Russell Union School Section*, 2 O.W.N. 686.—TEETZEL, J.
3. *Public School—Sale of Land by School Board to Railway Company—Order Authorising—R.S.C. 1906 ch. 37, sec. 184. Re Walkerton and Lucknow R.W. Co. and Public School Section No. 9, Glenelg*, 2 O.W.N. 430.—RIDDELL, J. (Chrs.)
4. *Public Schools—Two School Buildings in one Section—Public Schools Act, secs. 31, 72 (g), 126—Discretion of Trustees—Township Corporation—By-law—Mandamus. Re Medora School Section (No. 4)*, 2 O.W.N. 594, 985, 23 O.L.R. 523.—MIDDLETON, J.—D.C.

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fore Receiver Appointed—Judicature Act, sec. 58 (5).
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 2. Costs—Charging Order—Fund in Court—Land Ordered to be Reconveyed—Representations of Solicitor—Conflict of Evidence—Agreement. *Meakins v. Meakins*, 2 O.W.N. 150.—RIDDELL, J. (Chrs.)
 3. Professional Services—Contract with Client Fixing Amount of Remuneration—Payment on Account—Action for Balance—No Bill Rendered before Action—Solicitors Act, sec. 34. *Belcourt v. Crain*, 2 O.W.N. 508, 22 O.L.R. 591.—D.C.
 4. Retention of Client's Money—Order for Delivery of Bill of Costs—Promise to Pay "Retainer"—Motives Inducing Litigation. *Re Solicitor*, 2 O.W.N. 67, 22 O.L.R. 31.—D.C.
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6. *Contract for Sale of Land—Formation of Contract—Correspondence—Statute of Frauds.*]—A contract for the sale and purchase of land, sufficient to satisfy the Statute of Frauds, was held to be made out from correspondence between C. and the defendant, C. having authority to make the offer which the defendant accepted; and the parties to the contract, the subject-matter of it, and the price to be paid appearing in the correspondence. Specific performance was adjudged against the defendant, the vendor. *Latimer v. Park*, 2 O.W.N. 354.—MEREDITH, C.J.C.P.
7. *Contract for Sale of Land—Option—Authority of Agent of Vendor—Ratification—Time—Acceptance by Assignee of*

Person Named in Option—"Assigns" not Mentioned—Undisclosed Principal.—The plaintiffs sued for specific performance or damages for the refusal of the defendant to convey land pursuant to an option signed by B., assuming to act as agent for the defendant, and afterwards accepted, not by M., to whom it was given, but by the plaintiffs, to whom M. had assigned it. No consideration was mentioned in the assignment. B. had a limited authority from the defendant's wife to sell, within a couple of weeks. The property was not sold within a couple of weeks; but afterwards the option in question was given by B., and he informed the defendant that he had made a sale, and said that the defendant would get his money within ten days. The defendant was satisfied to take the money within the time, but not after the ten days had expired. B. handed to the defendant \$15 which he had received from M.:—*Held*, that B. exceeded his authority in giving the option, and the defendant was bound only to the extent of his assent, which was given upon the understanding that he was to receive the balance of the price within ten days; and, the money not having been paid, the bargain was off; there was no authority to sell except for cash.—*Held*, also, that an option given to a person, not naming his assigns, is a personal option, and not assignable before acceptance; nor would it make any difference that the person to whom the option was given was acting for an undisclosed principal. And the action was dismissed. *Canadian Pacific R.W. Co. v. Rosin*, 2 O.W.N. 610.—CLUTE, J.

8. *Contract for Sale of Land—Option or Offer—Time-limit for Acceptance—Repudiation by Vendor before Expiry—Agent of Purchaser—Name of, Used in Offer—Knowledge of Vendor—Assignment to Principal—Action by Principal—Estoppel—Consideration—Tender—Repudiation.*—The defendant, in writing, not under seal, for the expressed consideration of \$1, gave M. an option for thirty days to buy land. M. assigned the option to the plaintiff, and the plaintiff, within the thirty days, notified the defendant that he accepted the option:—*Held*, on the evidence, that M. was acting only as agent for the plaintiff, and the defendant knew that the plaintiff was the principal for whom M. was acting; and that entitled the plaintiff to maintain in his own name an action to enforce the contract; and he was not estopped from asserting his true position as principal

- by professing to accept as M.'s assignee.—*Held*, however, that there was no consideration for the offer or option—the \$1 being nominal and not actually paid—and upon that ground the action should be dismissed.—*Held*, also, that, as there was repudiation by the defendant before the expiration of the option, a tender of the purchase-money and of a conveyance for execution was not a necessary preliminary to the action.—*Canadian Pacific R.W. Co. v. Rosin*, 2 O.W.N. 610, referred to. *McKay v. Wayland*, 2 O.W.N. 741.—BRITTON, J.
9. Contract for Sale of Land—Possession—Improvements—Fraudulent Transfer by Vendor to Another—Land Titles Act—Depriving Purchaser of Lien—Personal Judgment against Vendor. *Bucovetsky v. Cook*, 2 O.W.N. 223.—D.C.
 10. Contract for Sale of Land—Possession Taken by Purchaser—Vendor without Patent for Land—Purchaser Failing to make Payments—Time Clause in Contract—Waiver—Judgment—Setting aside—Balance of Purchase-money Paid into Court—Vendor Treating Contract as Subsisting—Right of Purchaser to Redeem—Improvements Made by Purchaser—Costs. *Devlin v. Radkey*, 2 O.W.N. 347, 22 O.L.R. 399.—D.C.
 11. Contract for Sale of Land—Purchase-money Payable by Instalments—Default—Forfeiture—Termination of Contract—Acceptance of Lease by Purchaser—Action to Set aside—Fraud—Finding of Fact. *McCammond v. Govenlock*, 2 O.W.N. 563.—MULOCK, C.J. Ex.D.
 12. Contract for Sale of Land—Reservation of Gravel—License to Enter and Take—Consideration—Principal and Agent—Estoppel. *Farquhar v. Royce*, 2 O.W.N. 1472.—BRITTON, J.
 13. Contract for Sale of Land—Right to Conveyance and Possession on Payment of Purchase-price—Time—Extension—Agreement under Seal—Absence of Tender—Refusal to Enforce Performance—Costs. *Snider v. Snider*, 2 O.W.N. 1434.—BRITTON, J.
 14. Contract for Sale of Land—Specific Performance—Payment of Purchase-money to Vendor's Agent—Limitation of Agent's Authority—Evidence. *Henry v. Wismer*, 2 O.W.N. 1054.—D.C.

15. Contract for Sale of Land—Specific Performance—Possession—Statute of Limitations—Reservations and Exceptions—Damages—Costs. *Swearngen v. Hyndman*, 2 O.W.N. 530.—SUTHERLAND, J.
 16. Contract for Sale of Land—Specific Performance—Written Offer—Oral Acceptance—Statute of Frauds—Speculative Property—Time of Essence—Delay in Completion. *O'Gorman v. Fitzmaurice*, 2 O.W.N. 1480.—TEETZEL, J.
 17. Contract for Sale of Land—Vendor Seeking Specific Performance—Dwelling-houses Infested with Cockroaches—Misrepresentation by Vendor—Reliance on by Purchaser—Means of Knowledge. *Labelle v. Bernier*, 2 O.W.N. 634.—TEETZEL, J.
 18. Title to Land—Tax Sale Deeds—Clouds on Title—Adverse Possession—Evidence. *Re National Trust and Ewing*, 2 O.W.N. 801.—SUTHERLAND, J.
- See Account—Contract, 16, 27—Deed, 3—Pleading, 1, 8—Principal and Agent—Will, 15, 36, 49, 51, 56.

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1. Con. Rule 529 (b)—Onus. *Schultz v. Clemens*, 2 O.W.N. 26.—MASTER IN CHAMBERS.
2. County Court Action—Condition that Defendants should Admit Right of Action against Co-defendant—Costs. *Metal Shingle Co. v. Anderson*, 2 O.W.N. 1018.—MASTER IN CHAMBERS.
3. County Court Action—Convenience—Witnesses—Affidavits. *Cameron v. Driscoll*, 2 O.W.N. 338.—MASTER IN CHAMBERS.
4. District Court Action—Preponderance of Convenience—Witnesses—View by Jury. *Irwin v. McFee*, 2 O.W.N. 72.—MASTER IN CHAMBERS.
5. Fair Trial—Prejudice. *Allen v. Turk*, 2 O.W.N. 43, 92.—MASTER IN CHAMBERS.—LATCHFORD, J.
6. Inconvenience to Business. *Higgins v. Coniagas Reduction Co. and Ontario Power Co.*, 2 O.W.N. 953.—MASTER IN CHAMBERS.
7. Motion to Change—Jurisdiction of Master in Chambers—Previous Order of Judge Fixing Place of Trial. *Brennan v. Bank of Hamilton*, 2 O.W.N. 894.—MASTER IN CHAMBERS.

8. Place where Cause of Action Arose—Convenience—Witnesses—Expense—Terms. *Levesque v. North Bay Light Heat and Power Co.*, 2 O.W.N. 255.—MASTER IN CHAMBERS.
9. Preponderance of Convenience—Interpreter Required—None Available at Proposed New Place of Trial. *Alves v. Kearns Brothers*, 2 O.W.N. 1093.—MASTER IN CHAMBERS.
10. Witnesses. *Brulott v. Grand Trunk Pacific R.W. Co.*, 2 O.W.N. 28.—MASTER IN CHAMBERS.
11. Witnesses—Convenience. *Empire Cream Separator Co. v. Ross*, 2 O.W.N. 26.—MASTER IN CHAMBERS.
12. Witnesses—Expense—Convenience. *Dickenson v. Toronto R.W. Co.*, 2 O.W.N. 832.—MASTER IN CHAMBERS.
13. Witnesses—Expense—Costs. *Keyes v. McKeon*, 2 O.W.N. 899, 927.—MASTER IN CHAMBERS.—CLUTE, J. (Chrs.)
- See Notice of Trial, 1—Reference, 1.

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1. Adjoining Proprietors of Pulp Mills—Tail Race—Cross-Wall—Obstruction of Flow—Easement—Abandonment—Dominant and Servient Tenements—Increase of Burden—Claim of Interruption—Revocable License—Damages. *Davy v. Foley*, 2 O.W.N. 1028, 1284.—BRITTON, J.—D.C.
2. Building on Crib in Waters of Lake—Right of Owner of Share—Accretion—Right of Crown. *Point Abino Land Co. v. Michener*, 2 O.W.N. 122.—D.C.
3. Flooding Lands—Dam on River—Cause of Flooding—Evidence—Appeal. *Doolittle v. Town of Orillia*, 2 O.W.N. 896.—D.C.
4. Mill-owners—Pollution of Stream—Prescription—Payments—Acknowledgment—Nuisance—R.S.O. 1897 ch. 133, sec. 35—Easement—Damages—Injunction—Suspension for Limited Time. *Hunter v. Richards*, 2 O.W.N. 855.—LATCHFORD, J.
5. Mill Privileges—Dam—Flooding Lands—Prescription—Damages—Assessment of. *T. Cain v. Pearce Co., M. Cain et al. v. Pearce Co., Bonter v. Pearce Co.*, 2 O.W.N. 1498.—TEETZEL, J.
6. Mill Privileges—Dam—Flooding Lands—Prescription—Damages—New Trial—Costs. *McGrath v. Pearce Co.*, 2 O.W.N. 1496.—TEETZEL, J.
7. Mill Privileges—Dam—Raising Height of—Flooding Lands—Easement—Prescription—Damages—Judgment—Form of—Reference—Pleading—Particulars—Evidence—Sur-

prise at Trial—New Trial. *Cain v. Pearce Co.*, 2 O.W.N. 887.—D.C.

8. Navigable River—Interference with Natural Flow of Water—Injury to Owner of Saw-mill—Riparian Owner—Justification under Statutory Authority—4 & 5 Edw. VII. ch. 39 (D.)—Agreement with Provincial Government—6 Edw. VII. ch. 132 (O.)—Pleading—Amendment—Navigable Waters Protection Act, R.S.C. 1906 ch. 115—Navigation—Powers of Dominion Parliament—Findings of Jury—Damages. *Isherwood v. Ontario and Minnesota Power Co.*, 2 O.W.N. 651.—D.C.

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1. Private Way—Easement—Prescription—User—Evidence—Trespass. *McLachlan v. Schlievert*, 2 O.W.N. 649.—D.C.
2. Private Way—Right to Fence in Sides of "Lane"—Reservation in Deed—Possession—Evidence. *Ross v. McLaren*, 2 O.W.N. 861, 1156.—FALCONBRIDGE, C.J.K.B.—D.C.
3. Private Way—Way of Necessity—Access to Highway—Connection between Farms—Prescriptive Right—Evidence of User—Interruption—Real Property Limitation Act, secs. 35, 37. *McCulloch v. McCulloch*, 2 O.W.N. 331.—MIDDLETON, J.

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1. Bread Sales Act, 1910—Weight of Loaf—"Small-bread"—Portions Joined together—Conviction. *Rex v. Nasmith Co. Limited*, 2 O.W.N. 116.—MORSON, JUN. Co.C.J.
2. Bread Sales Act, 1910, sec. 3, sub-sec. 2—Construction—Sale of "Small-bread"—Case Stated by Lieutenant-Governor in Council—Constitutional Questions Act, 1909. *Re Bread Sales Act*, 2 O.W.N. 736, 23 O.L.R. 238.—C.A.

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- ence to Establish Lost Will. *Mutrie v. Alexander*, 2 O.W.N. 884, 23 O.L.R. 396.—MIDDLETON, J.
2. Administrator—Account—Beneficiary Residing with Relatives—Trust for Investment—Family Arrangement—Claim for Maintenance—Onus of Proof—Implied Promise—Contract—Intention to Make Gift—Cancellation of Authority. *Trusts and Guarantee Co. v. Boake*, 2 O.W.N. 972.—CLUTE, J.
 3. Competence of Testator—Undue Influence—Person Giving Instructions Benefitting by Change in Will—Onus on, not Satisfied—Evidence. *Quickfall v. Quickfall*, 2 O.W.N. 1127.—LATCHFORD, J.
 4. Construction—Absolute Gift Subject to be Divested—Postponement of Enjoyment—Rights of Possible Issue—Executors—Power of Advancement. *Re Scanlon*, 2 O.W.N. 39.—MIDDLETON, J.
 5. Construction—Annuity—Creation of Fund for—Right to Resort to Corpus. *Re Plaetzer Estate*, 2 O.W.N. 1143.—BRITTON, J.
 6. Construction—Avoidance of Intestacy—Indication of Intention to Dispose of whole Estate—Residuary Estate—Division into Shares—Deduction of Insurance Moneys from Shares—Testacy or Intestacy as to Insurance Moneys. *Re Lenz*, 2 O.W.N. 721, 1396.—MIDDLETON, J.—D.C.
 7. Construction—Bequest of Insurance Moneys to Wife for Life with Remainder to Others, not Preferred Beneficiaries—Insurance Act, secs. 159, 160—Absolute Right of Wife to Insurance Moneys—Other Benefits Given by Will—Wife not Put to Election—Exception to General Rule. *Re Edwards*, 2 O.W.N. 323, 22 O.L.R. 367.—RIDDELL, J.
 8. Construction—Bequest to “my Nephews and Nieces”—Whether Nephews and Nieces of Testator’s Wife Included—Oral Evidence—Inadmissibility—Absence of Ambiguity—Widow’s Dower—Benefits under Will not Inconsistent with—Mixed Fund of Personalty and Realty—Election not Required—Sum to be Set apart for Executors—Rents and Profits. *Re Urquhart*, 2 O.W.N. 451, 558.—MULOCK, C.J. Ex.D.
 9. Construction—Bequest to Widow—Income of Fund—When Payable—Postponement—Effect of—Vested Gift—Gift of

- Chattels "Used on Farm"—Residuary Clause—Division of Residue among Children in Proportion to Legacies—Life Interest of Legatee—Alteration in Amount of Legacy by Codicil—Devise of Interest in Land—Unpaid Purchase-money. *Re Hunter*, 2 O.W.N. 540, 1166, 24 O.L.R. 5.—MIDDLETON, J.—D.C.
10. Construction—Charitable Devise—"Wesleyan Methodist Foreign Mission"—Identity of Object with Claimant—Evidence. *Re Edwards*, 2 O.W.N. 765.—SUTHERLAND, J.
 11. Construction—Legacy to Executor—Codicil—Revocation of Appointment—Effect of—Appropriation for Maintenance of Burial Plot. *Re Bassett*, 2 O.W.N. 1219.—TEETZEL, J.
 12. Construction—Death of Legatee—Gift over—"Time of Distribution or Settlement of my Estate." *Re Marshall*, 2 O.W.N. 399.—MEREDITH, C.J.C.P.
 13. Construction—"Descendants"—Estate Tail. *Re Sutherland*, 2 O.W.N. 1386.—MIDDLETON, J.
 14. Construction—Devise—Estate in Fee—Contrary Intention Appearing by Will—Life Estate—Vested Interests in Remainder—Bequest of Personalty—Life Interest. *Re Cotterill*, 2 O.W.N. 745.—MIDDLETON, J.
 15. Construction—Devise—Estate in Fee—"In Case of the Decease"—Effect of Wills Act—Vendors and Purchasers Act. *Re Jebb*, 2 O.W.N. 1163.—MEREDITH, C.J.C.P.
 16. Construction—Devise—Income to be Paid Wife for Maintenance of herself and Children—Dower—Election—Intention to Exclude Right to Dower—Reduction of Income to be Paid to Widow. *Re Wadsworth*, 2 O.W.N. 999.—MIDDLETON, J.
 17. Construction—Devise—Life Estate or Fee Simple—Rule in Shelley's Case. *Re Anderson*, 2 O.W.N. 923.—MIDDLETON, J.
 18. Construction—Devise—Life Estate—Remainder in Fee—Executory Devise over. *Re Moore*, 2 O.W.N. 881.—BOYD, C.
 19. Construction—Devise—Life Estate—Remainder—Residuary Clause—Costs. *Re Mulgrew*, 2 O.W.N. 745.—MIDDLETON, J.
 20. Construction—Devise—Mistake in Description—Declaration—Life Estate—"Then" Construed as "In that Event"—

- Remainder—Power of Appointment—Intestacy—Contingent Vested Estate—Settled Estates Act—Sale under. *Re Hunsley*, 2 O.W.N. 32.—MIDDLETON, J.
22. *Construction—Devise to One for Life and to Issue after Decease—Estate Tail—Rule in Shelley's Case—“Without Making a Will.”*]—By the third clause of a will, land was given to the testator's granddaughter during the term of her natural life, and to her issue after her decease. It was provided by the 5th clause that if the granddaughter died without issue and without making a will the land should go in equal shares to others named:—*Held*, that the effect of the words “without making a will” was not of such force as to change the meaning of the word “issue” and reduce it to “children,” and thereby to cut down the estate tail given by the third clause by the operation of the rule in Shelley's case; and it was declared that the granddaughter took an estate tail. *Frank v. Stovin*, 3 East 548, followed. Judgment of LATCHFORD, J., 2 O.W.N. 120, reversed. *Watson v. Phillips*, 2 O.W.N. 261.—D.C.
22. *Construction—Devise to Wife for Life—Power to Use and Enjoy “Corpus”—Remainder to Others—Implied Power of Sale.* *Re Davey*, 2 O.W.N. 467.—TEETZEL, J.
23. *Construction—Direction to Apply Fund for Maintenance of Residence—Provision for Distribution of Fund if Residence Sold—Executory Interest of Distributee—Rule against Perpetuities—Status to Maintain Action—Summary Judgment on Pleadings—Application for Leave to Amend—New Cause of Action—Powers of Court—Pleading—Practice.* *Kennedy v. Kennedy*, 2 O.W.N. 625, 1173, 1304, 24 O.L.R. 183.—LATCHFORD, J.—D.C.
24. *Construction—Direction to Executors to Pay Mortgage—Deficiency of Free Personalty—Pecuniary Legacies—Apportionment of Mortgage Burden.* *Re Auston*, 2 O.W.N. 1358.—BOYD, C.
25. *Construction—Direction to Sell Lands—Conversion into Money—Provision for Widow in Lieu of Dower—Partial Intestacy—Election—Trust for Conversion—Real or Personal Estate—Devolution of Estates Act—Right of Widow to Share in Surplus.* *Re McEwen, McEwen v. Gray*, 2 O.W.N. 945, 23 O.L.R. 414.—MIDDLETON, J.

26. Construction—Disposition of Estate—Alternative Scheme—Inconsistent Provisions—Deferred Period of Distribution—Executors—Payment into Court—Representation of Parties—Costs. *Re Salter*, 2 O.W.N. 858.—MEREDITH, C.J.C.P.
27. Construction—Distribution of Estate—Vested Interests—Mortgage—Discharge—Payment into Court. *Re Todd*, 2 O.W.N. 182.—SUTHERLAND, J.
28. Construction—“Family”—Children—Insurance Moneys—Identification of Policy by Will—Infants—Exoneration of Fund—Creditors. *Re Hope*, 2 O.W.N. 63.—MIDDLETON, J.
29. Construction—Gift to Bible and Tract Society—Charitable Bequest—Division between two Societies which might have been Intended. *Re Paine*, 2 O.W.N. 494.—MEREDITH, C.J.C.P.
30. Construction—Gift to Charitable Institution—Misnomer—Application of Cy-près Doctrine—Residuary Gift—“Persons hereinbefore Named”—Individuals Actually Named as Legatees only Included. *Re Clapper*, 2 O.W.N. 111.—FALCONBRIDGE, C.J.K.B.
31. Construction—Gift to “Children”—Exclusion of Legitimate Children. *Lobb v. Lobb*, 2 O.W.N. 44, 22 O.L.R. 15.—D.C.
32. Construction—Gift to Daughter—Gift over to Testator’s Heirs-at-law upon Daughter Dying without Issue—Heirs to be Determined as of Date of Testator’s Death—Foreign Law—Evidence. *Dixon v. Dixon*, 2 O.W.N. 466.—RIDDELL, J.
33. Construction—Gift to “Surviving Children”—Relation to Period of Distribution. *Re Elliott*, 2 O.W.N. 936.—CLUTE, J.
34. Construction—Income to be Equally Divided among Children on Attaining Twenty-five—Guardian or Tutor of “any Child” to Receive Smaller Amount in Meantime—Right of Wife to Receive whole Income of her Children under 25. *Toronto General Trusts Corporation v. Goad*, 2 O.W.N. 1244.—MIDDLETON, J.
35. Construction—Intestacy—Power of Sale—Executors—Settled Estates Act—Representation of Issue. *Macdonald v. Peters*, 2 O.W.N. 1209.—MIDDLETON, J.

36. *Construction—Joint Estate for Life—Survivorship—R.S.O. 1897 ch. 119, sec. 11—Title—Vendor and Purchaser.]—* Devise to the testator's two daughters "and to the survivor of them, her heirs and assigns forever." The survivor assumed to sell the land:—*Held*, that the effect was to give to the daughters a joint estate during the life of both, and to the survivor a separate estate in remainder after the determination of the joint life estate; and R.S.O. 1897 ch. 119, sec. 11, makes no difference in this respect.—*Held*, therefore, upon application under the Vendors and Purchasers Act, that the survivor could convey in fee. *Re Gignac and Denis*, 2 O.W.N. 40.—MIDDLETON, J.
37. *Construction—Legacy—Death of Legatee—Substitution of Infant Legatee—Application of Income for Maintenance—Absence of Direction in Will. Re Leitch*, 2 O.W.N. 714.—SUTHERLAND, J.
38. *Construction—Legacy—Vested Interest. Re Cook Estate*, 2 O.W.N. 1017.—SUTHERLAND, J.
39. *Construction—Legatee under Will Bequeathing Share of Estate—Legatee Dying before Testator—Wills Act, sec. 36—Both Wills Taking Effect—Motion for Construction Unnecessary—Costs—Executors—Passing Accounts. Re Mathe*, 2 O.W.N. 327.—MIDDLETON, J.
40. *Construction—Life Interest—Remainder—Survivorship—Reference to Period of Distribution—Intestacy—Representation of Parties. Re Miller*, 2 O.W.N. 782.—MIDDLETON, J.
41. *Construction—Line of Division of Farm—Intention of Testator—Leave to Mortgage Devised Lands—Costs. Shepard v. Shepard*, 2 O.W.N. 1012, 1274.—LATCHFORD, J.—D.C.
42. *Construction—Period of Distribution of Moneys in Hands of Executors—Death of Annuitant. Re Wilson*, 2 O.W.N. 283.—MIDDLETON, J.
43. *Construction—Precatory Words—Restraint—Trust.]—* Land was devised to a person "with the wish that he may keep the same free from mortgage as a summer residence for himself and children:—"*Held*, that the devisee was the owner in fee freed from any trust or obligation imposed by the will. Review of the authorities. *Re Bolster*, 2 O.W.N. 54.—MIDDLETON, J.

44. Construction—Residuary Clause—“Allot the Distribution of what can be Spared”—Gift of Capital—Effect of Former Judgment Construing the same Will—Declaration against Intestacy—Vested Estates in Distributees—Representatives of Daughter Dying before Realisation of Estate—Capital Invested to Produce Annuity—Death of Annuitant—Accretion to Residue. *Re Macdonald*, 2 O.W.N. 605, 1183.—MIDDLETON, J.—D.C.
45. Construction—Secured Debts—Postponement of Payment—Payment out of Accumulated Income—Rights of Creditors—Exoneration of Property Charged—Charitable Trust in Respect of Lands Charged—Transfer after Payment of Charges—Condition of Gift Taking Effect—Creation of Bishopric within Long Period—Substitution of Another Charitable Object in Event of Condition not being Fulfilled—Rules against Remoteness—Trust Subject to be Divested—Suspended Gift—Valid Charitable Bequests—General Intention—Incomplete Detail—Restraint upon Alienation—Invalidity. *Re Mountain*, 2 O.W.N. 246.—BOYD, C.
46. Construction—Trust—Absolute Interest—Vested Estate to be in Part Divested in the Event of Marriage. *Re Graham*, 2 O.W.N. 329, 608.—FALCONBRIDGE, C.J.K.B.—D.C.
47. Construction—Trust—“Heirs” of Living Person—Legal Estate—Equitable Estate—Use of Income—Executors—Rule in Shelley’s Case. *Re McAllister*, 2 O.W.N. 704, 1171, 24 O.L.R. 1.—RIDDELL, J.—D.C.
48. Construction—Trust for Benefit and Advancement of Legatee—Directions given to Trustee as to Application—Sole Discretion of Trustee—Death of Beneficiary—Intestacy as to Undisposed of Residue—Next of Kin of Testator Entitled. *Re Rispin*, 2 O.W.N. 1122.—BOYD, C.
49. Construction—Trust or Power to Sell Land—Intention—Exercise of Power—Vendor and Purchaser. *Re O’Byrnes and Swan*, 2 O.W.N. 474.—FALCONBRIDGE, C.J.K.B.
50. Construction—“While he is Unmarried”—Occupation of Residence—License—Termination on Marriage—Residuary Devise Taking Effect upon Marriage—Tenancy in Common—Right of Possession. *Re Ryan*, 2 O.W.N. 29.—MIDDLETON, J.

51. Devise—Restraint upon Alienation—Invalidity—Vendor and Purchaser—Objection to Title. *Re Baldwin and Hunter*, 2 O.W.N. 199.—MIDDLETON, J.
52. Devise of Land not Owned by Testator—Misdescription—Parol Evidence—Intention—Absence of General Words—Ineffective Devise—Intestacy. *Re Clement*, 2 O.W.N. 127, 22 O.L.R. 121.—RIDDELL, J. (Chrs.)
53. Devise—Mistake in Description of Land—General Words of Devise—Declaration that Land Owned by Testator Passed by Will. *Smith v. Smith*, 2 O.W.N. 179, 22 O.L.R. 127.—RIDDELL, J.
54. Devise of Land Subject to Legacies—Releases from Legatees Proved but not Produced—Alleged Condition in Releases—Evidence—Corroboration. *Garland v. Emery*, 2 O.W.N. 1265.—BRITTON, J.
55. Devise to Wife for Life or Widowhood—Dower—Election. *Re Smith*, 2 O.W.N. 474.—RIDDELL, J.
56. Executors—Power to Sell Lands—Limitation of Time—Directory Provision—Concurrence of Residuary Devisees—Title—Vendor and Purchaser. *Re Walton and Bailey*, 2 O.W.N. 428.—MEREDITH, C.J.C.P.
57. Executors and Trustees—Renunciation of Executorship—Retraction—Right to Exercise Office of Trustee—Duties of Office not Separable—Jurisdiction of High Court to Set aside Renunciation—Surrogate Courts Act—Judicature Act—Interest in Residuary Estate—Doctrine of Perpetuities—Interpretation of Will. *Foxwell v. Kennedy*, 2 O.W.N. 821, 1299, 24 O.L.R. 189.—TEETZEL, J.—D.C.
58. Interest in Business—Partnership Account. *Muir v. Currie*, 2 O.W.N. 1275.—MIDDLETON, J.
59. Testamentary Capacity—Delusions—Proof of Existence—Effect on Disposition of Property—Contestation of Will—Proof in Solemn Form—Costs—Unfounded Charge of Undue Influence. *McIntee v. McIntee*, 2 O.W.N. 202, 22 O.L.R. 241.—RIDDELL, J.
60. Trust for Payment of Husband's Creditors—Statute of Limitations—Statute-barred Creditors Entitled. *Re Alice Kerr*, 2 O.W.N. 1342.—MIDDLETON, J. (Chrs.)

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2. Service out of Jurisdiction—Con. Rule 162 (*e*)—Both Parties
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Russell v. Greenshields, 2 O.W.N. 563, 718, 1201, 23 O.L.R.
 171, 24 O.L.R. 113.—MASTER IN CHAMBERS.—BOYD, C.—D.C.
3. Service out of Jurisdiction without Order under Con. Rule
 162—Nullity. *Grant v. Kerr*, 2 O.W.N. 770.—MASTER IN
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