

DIGEST OF UNREPORTED MANITOBA CASES JANUARY-JUNE, 1979

BRENT LATIMER*

This issue of the Manitoba Law Journal will contain a continuation of the Digest of Unreported Manitoba Cases.¹ We will be digesting all Manitoba Court of Appeal, Court of Queen's Bench, County Court and Surrogate Court decisions that are not reported in the major as well as the more specialized report series. In this issue, we will be digesting cases from the first half of 1979.

The numbered references are to the filed case reports contained in the E.K. Williams Library at Robson Hall, University of Manitoba.

The cases are listed according to general law school areas of study. So far, they are listed according to 26 areas of study.² If a particular case has direct relevance to more than one field, it is digested under each appropriate heading. It may become necessary to add a few new headings; this will likely be needed for only the more specialized areas.

We wish to acknowledge Mr. Eugene Szach's contribution in providing us with the digests, as well as Ms. Donna Hodgins for her secretarial assistance.

Administrative Law

Manitoba Court of Appeal

#5 — *Johnson v. Man. Police Commission* — judicial review — jurisdiction — natural justice — Manitoba Police Commission — inquiry *re* police brutality — power to call inquiry under *Prov. Police Act* — possibility of bias — purpose of inquiry — 8 pp. — Freedman, C.J.M., Matas & O'Sullivan, J.J.A. — Jan. 16.

#56a — *Kessiloff v. Law Society of Man.* — Law Society of Manitoba — proper procedures *re* application for a current practicing certificate — jurisdiction to refer application to Admissions & Education Committee — 13 pp. — Matas, Hall, O'Sullivan, J.J.A. — June 6.

#64 — *Purolator Courier Ltd. v. Motor Transport Bd. of Man.* — Appeal — application for leave to appeal — Motor Transport Bd. decision — alleged breach of P.S.V. certificate — whether prosecution should have been launched — right of Bd. to amend extra-provincial certificate — question of law — jurisdiction — 6 pp. — Monnin, J.A. (in chambers) — June 21.

Manitoba Court of Queen's Bench

— None —

Manitoba County Court and Surrogate Court

— None —

* Digest Editor, Faculty of Law, University of Manitoba.

1. The Digest first appeared in (1979), 10 Man. L.J. 103 and covered the period of January-June, 1978; (1980), 10 Man. L.J. 229 covered the period of June-December, 1978.
2. re: Administrative Law; Agency; Business Organizations; Civil Liberties; Civil Procedures; Commercial and Consumer Transactions; Constitutional Law; Contracts; Creditors' Rights; Criminal Law, Procedure and Sentencing; Evidence; Family Law; Insurance; Labour Law; Landlord and Tenant; Legal Ethics; Local Government Law; Negotiable Instruments; Personal Property; Real Property; Restitution; Taxation; Torts; Transportation and Communication Law; Trusts; Wills.

Agency

Manitoba Court of Appeal

— None —

Manitoba Court of Queen's Bench

— None —

Manitoba County Court and Surrogate Court

#56 — *Mistal v. Fort Garry Trust Co.* — real estate — home listed for sale — damage to home caused by turning off thermostat — liability of agent — counterclaim for commission on sale of home — whether purchaser “introduced” to prop. by agent — 10 pp. — L. Ferg, C.C.J. — May 14.

Business Organizations

Manitoba Court of Appeal

— None —

Manitoba Court of Queen's Bench

#21 — *Hlynsky v. Rent Stabilization Bd.* — corporate veil — landlord-tenant relationship — effect of incorporation on failure of landlord in his personal capacity to comply with requirements of *Rent Stabilization Act* — 5 pp. — Solomon, J. — Mar. 16.

#25 — *Bank of Nova Scotia v. Wiley* — directors — insolvent company — suit by creditor to enforce obligation by two directors — claim of fraud against others involved in business — 23 pp. — Solomon, J. — Mar. 23.

Manitoba County Court and Surrogate Court

#58 — *Chiarmonite v. Harasymchyk* — *Business Names Registration Act* — alleged similarity of business names — possibility of confusion — women's hairdressing shop — men's barber shop — 6 pp. — L. Ferg, C.C.J. — May 16.

#73 — *Janzen Bros. Excavators Ltd. v. Insta-Matic Finance Ltd.* — service contract — whether corporate officer contracted on behalf of named defendant or another co. — 7 pp. — Lockwood, C.C.J. — June 13.

Civil Liberties

Manitoba Court of Appeal

#25 — *Fitzpatrick v. Social Services Advisory Committee* — social services — decision of Advisory Committee — leave sought to appeal decision — alleged breach of *Human Rts. Act*, s. 3(1) & 7(1) — 3 pp. — Monnin, J.A. (in chambers) — Mar. 14.

Manitoba Court of Queen's Bench

— None —

Manitoba County Court and Surrogate Court

— None —

Civil Procedure

Manitoba Court of Appeal

#16 — *Gordon v. Wpg., City of* — statement of defence — claim of non-compliance with notice provisions of statute — plaintiff alleging “reasonable excuse” for non-compliance — 7 pp. — Freedman, C.J.M., Guy & Hall, J.J.A. — Jan. 29.

#20c — *Driedger v. Pine Creek Holding Co.* — parties — judgment suit against Hutterite holding company for balance of account — whether suit should have been against the Hutterite colony — 2 pp. — Hall, Matas & O'Sullivan, J.J.A. — Feb. 16.

#24 — *Centennial Realty Ltd. v. Pearlman* — particulars — demand for particulars of claim — motion to stay execution of judgment pending hearing of appeal *re* particulars — evasion by defendants of proper service of documents — 13 pp. — Freedman, C.J.M., Monnin & O'Sullivan, J.J.A. — Feb. 28.

#43 — *Federal Business Development Bank v. Rothberg* — parties — addition of one party to Originating Notice of Motion — consent of other parties — 2 pp. — Monnin, Hall & Huband, J.J.A. — Apr. 26.

#47 — *Hechter v. Thurston* — appeal — application for leave to appeal to S.C.C. — 3 pp. — Monnin, Hall & Huband, J.J.A. — May 7.

Manitoba Court of Queen's Bench

#36 — *Hawes v. Szewczyk* — injunction — interim injunction sought to prevent defendant from disposing of land pending conclusion of case — *Q.B. Act*, s. 59(1) — “just or convenient” — 6 pp. — Hamilton, J. — Apr. 18.

#39 — *Retail Store Employees' Union Local 832 v. Canada Safeway Ltd.* — declaration — discretion of court — no. — 14 pp. — Kroft, J. — Apr. 19.

#48 — *Bank of Nova Scotia v. Wiley* — costs — motion to raise bar — whether motion can be heard after Judgment Roll entered — jurisdiction of Court to correct Roll in respect of costs — 7 pp. — Solomon, J. — May 2.

#59 — *Kay v. McGay Ltd.* — counterclaim — motion to exclude counterclaim and have issue dealt with in separate action — connection of counterclaim to original action — 8 pp. — Morse, J. — June 5.

Manitoba County Court and Surrogate Court

#18 — *M.P.I.C. v. Loranger* — Statement of Defence — application for leave to appeal — intention to withdraw admissions made in original pleading — 5 pp. — Kennedy, C.C.J. — Mar. 6.

#20 — *Elk Island Lodge Ltd. v. Pranteau* — appeal — application to extend time in order to appeal — arguability of successful appeal if application allowed — 4 pp. — Kennedy, C.C.J. — Mar. 8.

#23 — *Arbez v. Licence Suspension Appeal Bd.* — appeal — application to extend time for launching appeal — residual or inherent power of court to extend appeal time — 4 pp. — Dureault, C.C.J. — Mar. 16.

#41 — *Deloitte, Haskins & Sells v. Sunset Thermographers Ltd.* — default judgment — motion to set aside — whether defendant has arguable defence — 5 pp. — Jewers, C.C.J. — Apr. 12.

#45 — *Carthy v. Bourrier* — pleadings — amendment — proposed amendment having effect of changing previously issued Q.B. order — receivership — 9 pp. — Lockwood, C.C.J. — Apr. 23.

#55 — *Deloitte, Haskins & Sells v. Sunset Thermographers Ltd.* — default judgment — motion to set aside — whether claim of being overcharged raised a triable issue worthy of investigation — 8 pp. — Jewers, C.C.J. — May 10.

#66 — *Schreiner v. Licence Suspension Appeal Bd.* — County Ct. — jurisdiction to hear appeal *re* licence suspension — appellant a non-resident of Man. — 5 pp. — Barkman, C.C.J. — June 5.

#82 — *Silverman v. Albert* — parties — motion to rescind order adding male defendant as party to action — *County Cts. Act*, Pt. II — 10 pp. — Lockwood, C.C.J. — June 25.

Commercial and Consumer Transactions*Manitoba Court of Appeal*

— None —

Manitoba Court of Queen's Bench

#12 — *Popkes v. Evergreen Industries Ltd.* — specific performance — sale of sunflower seeds — whether merchantable quality — inspection by buyer — *Sale of Goods Act*, s. 16 — 13 pp. — Wilson, J. — Feb. 13.

Manitoba County Court and Surrogate Court

#5 — *Easton's Cleaners, Dyers, and Furriers Ltd. v. Marv-Eon Signs Ltd.* — neon sign — collapse — alleged structural defects — reasonable fitness for purpose — effect of limitation of liability clause on s. 16 *Sale of Goods Act* — 10 pp. — Thompson, C.C.J. — Jan. 19.

#7 — *Stromberg v. Blayden* — *Cons. Protection Act* — merchantable quality — fitness for purpose — defective automobile engine — 10 pp. — Lockwood, C.C.J. — Jan. 30.

#12 — *Saley v. Skavinski* — alleged sale of airplane — deposit — whether deposit applicable to alleged sale in question — *Sale of Goods Act*, s. 6(1) — 8 pp. — Lockwood, C.C.J. — Feb. 7.

#14 — *McNaught Pontiac Buick Cadillac Ltd. v. Spiropoulos* — used car — defects — warranty — oral representations — *Cons. Protection Act*, s. 58(8) — 6 pp. — Barkman, C.C.J. — Feb. 22.

#16 — *Greenfield v. Dominion Motors Ltd.* — used car — sale — merchantable quality — latent defect alleged — rusting — 81 pp. — Coleman, C.C.J. — Mar. 16.

- #37 — *Kowalchuk v. Beausejour Chrysler Dodge* — used car — exemption clause — whether purchaser aware of clause — reasonable fitness for purpose — 3 pp. — Thompson, C.C.J. — Apr. 6.
- #42 — *Wilton Mercury Sales Ltd. v. Doherty* — truck — reasonable fitness for purpose — merchantable quality — frequency and complexity of repairs — 10 pp. — L. Ferg, C.C.J. — Apr. 17.
- #52 — *R. v. Flett* — *Sale of Goods Act* — passing of property — relation to criminal offences of theft and fraud — 12 pp. — Philp, C.C.C.J. — May 4.
- #69 — *Tee-Jay Furniture Sales Ltd. v. Kern-Hill Furniture Co-Op Ltd.* — furniture — sale from wholesaler to retailer — reasonable fitness — merchantable quality — damages — 6 pp. — Jewers, C.C.J. — June 7.
- #78 — *Cannell v. Bobby* — contract to build custom motorcycle — theft of parts from defendant's shop — whether property had passed to plaintiff — 5 pp. — Barkman, C.C.J. — June 20.

Constitutional Law

Manitoba Court of Appeal

— None —

Manitoba Court of Queen's Bench

— None —

Manitoba County Court and Surrogate Court

#34 — *H. v. W.* — children — adoption — right of access — whether access right of one parent under *Divorce Act* can be terminated by adoption order under provincial legislation — 19 pp. — Jewers, S.C.J. — Apr. 3.

Contracts

Manitoba Court of Appeal

#2 — *Kessiloff v. Unicity Taxi Ltd.* — termination — breach — shareholder's operating agreement *re* taxicab — no-smoking policy by operator — whether "prejudicial" conduct entitling termination of agreement — 8 pp. — Freedman, C.J.M., Monnin & Matas, J.J.A. — Jan. 8.

#23 — *Hunt v. Avlonitis* — undue influence — share-purchase agreement — alleged failure of solicitor to disclose material facts — 12 pp. — Monnin, Matas & O'Sullivan, J.J.A. — Feb. 23.

#57 — *Natuk v. Kawula* — unconscionable transaction — sale of land from mother to son — "presumption of fraud" — substantial unfairness — 14 pp. — Hall, Matas & Huband, J.J.A. — June. 6.

Manitoba Court of Queen's Bench

#12 — *Popkes v. Evergreen Industries Ltd.* — specific performance — sale of sunflower seeds — refusal by purchaser to execute contract — quality of seeds — legal relationship between parties — 13 pp. — Wilson, J. — Feb. 13.

#53 — *Jaslowski v. Jaslowski* — offer and acceptance — alleged agreement between mother and son — son claiming remainder interest in farmland in consideration for promise to look after mother for the balance of her life — *quantum meruit* — necessity to plead *Statute of Frauds* — 10 pp. — Wright, J. — May 18.

#65 — *Gannon v. Leaf Rapids Town Properties* — offer and acceptance — whether management contract concluded — agreement to agree alleged — alleged failure of corporate plaintiff to adopt contract — damages — 11 pp. — Morse, J. — June 12.

Manitoba County Court and Surrogate Court

#1 — *Craven Steinfeld Architects v. Inter-Struct Ltd.* — breach — failure to pay for architectural drawings — alleged failure of drawings to meet C.M.H.C. standards — 8 pp. — Kennedy, C.C.J. — Jan. 2.

#5 — *Easton's Cleaners, Dyers, and Furriers Ltd. v. Marv-Eon Signs Ltd.* — exclusion clause — effect on implied condition of reasonable fitness in s. 16 *Sale of Goods Act* — 10 pp. — Thompson, C.C.J. — Jan. 19.

#7 — *Stromberg v. Blayden* — breach — replacement of automobile engine — new engine defective — damages — 10 pp. — Lockwood, C.C.J. — Jan. 30.

#12 — *Saley v. Skavinski* — offer and acceptance — condition precedent — deposit — suit for return of deposit on rescinded contract — whether a 2nd contract negotiated to which deposit could be applied — damages — interest — 8 pp. — Lockwood, C.C.J. — Feb. 7.

- #13 — *Xerox of Canada Ltd. v. Cook* — terms — breach — termination — rental of photography machine — attempt by lessee to terminate rental agreement — condition subsequent — 9 pp. — Jewers, C.C.J. — Feb. 19.
- #14 — *McNaught Pontiac Buick Cadillac Ltd. v. Spiropoulos* — warranty — sale of used car — oral representations as part of warranty — *Cons. Protection Act, s. 58(8)* — 6 pp. — Barkman, C.C.J. — Feb. 22.
- #17 — *Jenkinson's Food Market Ltd. v. Gaynor* — chattel mortgage — determination of interest payable — *contra proferentem* rule — 4 pp. — Barkman, C.C.J. — Mar. 6.
- #36 — *Girling v. Selco Enterprises Ltd.* — breach — construction of building — deficiency of double dry wall — damages — 8 pp. — Barkman, C.C.J. — Apr. 6.
- #37 — *Kowalchuk v. Beausejour Chrysler Dodge* — terms — sale of car — exemption clause *re* defects — whether buyer aware of contents of clause — 3 pp. — Thompson, C.C.J. — Apr. 6.
- #43 — *Provincial Bank of Canada v. Delaney* — terms — promissory note — loan agreement — death of co-applicant for loan — whether loan contract included agreement by lender to insure life of co-applicant — 8 pp. — Jewers, C.C.J. — Apr. 19.
- #44 — *Xerox of Canada Ltd. v. Prairie Equipment Ltd.* — terms — breach — rental of photocopier — provision for termination of contract — damages — whether contract contains penalty clause — contract breached by lessee — 10 pp. — Thompson, C.C.J. — Apr. 20.
- #47 — *Brown v. Mulligan* — debt — creditor paid by cheque — stop payment — right of creditor to sue under contract for unpaid debt — 5 pp. — Philp, C.C.C.J. — Apr. 25.
- #47a — *Kumka v. Blackwood Hodge Western Ltd.* — collateral contract — intention to create — breach of main contract — sales — whether plaintiff deprived of commissions by existence of "house accounts" serviced by employer — 8 pp. — Lockwood, C.C.J. — Apr. 27.
- #53 — *Stanley Steel Industries Ltd. v. Kluczkowski* — breach — damages — supply of materials — repudiation by defendant — damages claimed for demurrage, unloading, advertising and carrying charges involved in eventual sale of materials to 3d party — 6 pp. — Jewers, C.C.J. — May 7.
- #57 — *Rieber v. Starr* — offer and acceptance — alleged contract for feasibility study on Indian reserve — effect of disbanding of band council on alleged contract and its execution — 8 pp. — Thompson, C.C.J. — May 15.
- #70 — *Yewish v. Jefkins* — rescission — misrepresentation — agreement to exchange cars — contract made by infant — whether voidable — 14 pp. — Coleman, C.C.J. — June 10.
- #77 — *Construction Equipment Co. (Man.) Ltd. v. Ashern Construction Ltd.* — terms — breach — machine rental — transportation clause — breakdown — 6 pp. — Barkman, C.C.J. — June 19.
- #83 — *Silver v. Acadia Realty Ltd.* — terms — accountancy fees — whether excessive — 4 pp. — Kennedy, C.C.J. — June 26.

Creditors' Rights

Manitoba Court of Appeal

— None —

Manitoba Court of Queen's Bench

- #2 — *Mountain School Division No. 28 v. General Brake and Clutch Service Ltd.* — garage keeper's lien — registration — wrong person registered as owner — validity of lien — 7 pp. — Dewar, C.J.Q.B. — Jan. 10.
- #22 — *Benge v. Hanna* — sureties — chattel mortgage — retirement of debt by guarantors — contribution claimed against defaulting guarantor — assignment — conduct of creditor — effect on assignee — revocability of guarantee — 20 pp. — Wilson, J. — Mar. 21.
- #25 — *Bank of Nova Scotia v. Wiley* — promissory notes — action to enforce notes against principal debtor and endorsers — claim by endorsers that they endorsed notes as a result of fraudulent misrepresentations — 23 pp. — Solomon, J. — Mar. 23.
- #30 — *Wertheim & Co. v. Feigelman* — securities — moneys owing *re* securities dealings — claim by defendant to be in partnership with securities broker — 6 pp. — Hunt J. — Mar. 30.

#64 — *Steingard v. Grigg* — attaching order — motion to set aside — sufficiency of plaintiff's reason to suspect fraud — whether sum certain involved — action in tort — 6 pp. — L. Ferg, L.J.Q.B. — June 11.

Manitoba County Court and Surrogate Court

#17 — *Jenkinson's Food Market Ltd. v. Gaynor* — chattel mortgage — terms — determination of proper amount of interest payable — *contra proferentem* rule — 4 pp. — Barkman, C.C.J. — Mar. 6.

#50 — *Fontaine Drywall Ltd. v. L & B Corp. Ltd.* — mechanics' lien — suit for personal judgment under s. 43 — whether previous waiver of lien rights precludes obtaining of personal judgment — dispute *re* termination of sub-contract — 8 pp. — Thompson, C.C.J. — May 4.

Criminal Law, Procedure and Sentencing

Manitoba Court of Appeal

#20a — *R. v. Kirkness* — sentencing — causing bodily harm with intent — Crown appeal of 3-month sentence — 3 pp. — Freedman, C.J.M., Monnin, Hall, Matas & O'Sullivan, J.J.A. — Feb. 12.

#20b — *R. v. Smail* — sentencing — causing death by criminal negligence — death of accused's son — recommendation by Crown that no prison sentence be imposed — 7 pp. — Freedman, C.J.M., Monnin, Hall, Matas & O'Sullivan, J.J.A. — Feb. 12.

#20d — *R. v. Cameron* — sentencing — driving while disqualified — numerous previous offences under same charge — 3 pp. — Freedman, C.J.M., Monnin, Hall, Matas & O'Sullivan, J.J.A. — Feb. 19.

#20e — *R. v. Fagan* — sentencing — forcible confinement — hostage incident — Crown appeal of 6-month sentence — 3 pp. — Freedman, C.J.M., Monnin, Hall, Matas & O'Sullivan, J.J.A. — Feb. 19.

#23a — *R. v. Twoheart* — murder — second degree — accused charged with shooting his wife — defence of accident — 5 pp. — Freedman, C.J.M., Hall & Matas, J.J.A. — Feb. 26.

#27 — *R. v. Marion* — sentencing — driving while disqualified — seventh conviction for same offence — imprisonment — 3 pp. — Monnin, Hall & O'Sullivan, J.J.A. — Mar. 22.

#29 — *R. v. Sharpe* — attempted rape — Crown appeal — question of law — sentencing — attempted rape — forcible confinement — 6 pp. — Freedman, C.J.M., Monnin, Matas, O'Sullivan & Huband, J.J.A. — Mar. 26.

#33 — *R. v. Silvaggio* — sentencing — dangerous driving — break, enter and theft — 38 pp. — Freedman, C.J.M., Hall & Matas, J.J.A. — Jan. 28.

#34 — *R. v. Skup* — sentencing — indecent assault — gross indecency — consecutive sentences — previous convictions — 2 pp. — Freedman, C.J.M., Hall, Matas, O'Sullivan & Huband, J.J.A. — Apr. 17.

#35 — *R. v. Ganchar* — sentencing — forgery — Crown appeal — no jail sentence — accused not seeking monetary gain — 3 pp. — Freedman, C.J.M., Hall, Matas, O'Sullivan & Huband, J.J.A. — Apr. 17.

#35a — *R. v. Summers* — sentencing — fraud — false pretences — theft — forgery — 2 pp. — Freedman, C.J.M., Hall, Matas, O'Sullivan & Huband, J.J.A. — Apr. 17.

#36 — *R. v. Wiens* — conspiracy — Crown appeal of 3-year sentence — comparison of accused's sentence with other persons involved in same offence — 3 pp. — Freedman, C.J.M., Hall, Matas, O'Sullivan & Huband, J.J.A. — Apr. 17.

#36a — *R. v. Maytwayashing* — sentencing — robbery — conviction changed to assault and theft — 2 pp. — Freedman, C.J.M., Hall, Matas, O'Sullivan & Huband, J.J.A. — Apr. 17.

#36b — *R. v. Wiebe* — sentencing — forgery, theft, fraud, false pretences, uttering, possession — 2 pp. — Freedman, C.J.M., Hall, Matas, O'Sullivan & Huband, J.J.A. — Apr. 17.

#37 — *R. v. Klyne* — sentencing — break, enter and theft — undue emphasis on accused's criminal record — 3 pp. — Monnin, Hall, Matas, O'Sullivan & Huband, J.J.A. — Apr. 18.

#42 — *R. v. Neufeld* — preliminary hearing — re-election — effect of re-election made before committal to trial — 1 p. — Monnin, Hall, Matas, O'Sullivan & Huband, J.J.A. — Apr. 25.

- #48 — *R. v. Guiboche* — sentencing — indecent assault — Crown appeal — 3 pp. — Monnin, Hall, Matas, O'Sullivan & Huband, JJ.A. — May 8.
- #52a — *R. v. Buzunis* — sentencing — trafficking — Crown appeal — 2 pp. — Hall, Matas & O'Sullivan, JJ.A. — May 24.
- #52b — *R. v. Werra* — trafficking in marijuana — whether accused knew contents of certain items — whether “manufacture” under Act includes “production” — participation of accused in manufacturing of marijuana — 4 pp. — Freedman, C.J.M., O'Sullivan & Huband, JJ.A. — May 25.
- #55a — *R. v. Montpetit* — sentencing — break, enter and theft from a dwelling house — minor offence — mitigating circumstances — 3 pp. — Freedman, C.J.M., Monnin, Hall, O'Sullivan & Huband, JJ.A. — May 31.
- #55b — *R. v. Pasha* — sentencing — conspiracy to traffic in LSD — 2 pp. — Freedman, C.J.M., Monnin, Matas, O'Sullivan & Huband, JJ.A. — May 30.
- #55c — *R. v. Charette* — sentencing — being unlawfully at large — 4 pp. — Freedman, C.J.M., Monnin, Hall, O'Sullivan & Huband, JJ.A. — May 31.
- #55d — *R. v. Pammer* — indecent assault — whether accused denied misconduct — sentencing — 4 pp. — Freedman, C.J.M., Monnin, Matas, O'Sullivan & Huband, JJ.A. — May 30.
- #55e — *R. v. Young* — sentencing — theft — 3 pp. — Freedman, C.J.M., Monnin, Hall, O'Sullivan & Huband, JJ.A. — May 31.
- #59b — *R. v. Dinn* — possession of housebreaking instruments — *Code*, s. 309(1) — “without lawful excuse” — onus of proof on accused — 4 pp. — Freedman, C.J.M., Monnin, Hall, Matas & O'Sullivan, JJ.A. — June 12.
- #59c — *R. v. Dinn* — appeal — failure of accused to appear in court — whether accused properly informed — 2 pp. — Freedman, C.J.M., Monnin, Hall, Matas & O'Sullivan, JJ.A. — June 12.
- #60a — *R. v. Ross* — attempted rape — wounding with intent — separate offences — sentencing — 60 pp. — Monnin, Hall, Matas, O'Sullivan & Huband, JJ.A. — June 15.
- #61a — *R. v. Archer* — trial — motion by accused for change of *venue* — admissions — character evidence — 1st or 2nd degree murder — 4 pp. — Freedman, C.J.M., Hall, Matas, O'Sullivan & Huband, JJ.A. — June 18.
- #66 — *R. v. Amos* — sentencing — possession of a weapon for a purpose dangerous to the public peace — 5 pp. — Freedman, C.J.M., Monnin, Hall, Matas & Huband, JJ.A. — June 22.
- #67 — *R. v. Chubb* — sentencing — robbery — 6 pp. — Monnin, Matas & Huband, JJ.A. — June 22.
- #68 — *R. v. Huntinghawk* — sentencing — driving while disqualified — leaving the scene of an accident — dangerous driving — 2 pp. — Freedman, C.J.M., Monnin, Hall, Matas & Huband, JJ.A. — June 22.
- #69 — *R. v. Martin* — sentencing — bookmaking charges — 2 pp. — Freedman, C.J.M., Monnin, Hall, Matas & Huband, JJ.A. — June 22.
- #70 — *R. v. Tanner* — sentencing — accused hitting complainant with car — provocation — 3 pp. — Freedman, C.J.M., Monnin, Hall, Matas & Huband, JJ.A. — June 22.
- #71 — *R. v. Tomack* — sentencing — breaking and entering — violence — 2 pp. — Freedman, C.J.M., Monnin, Hall, Matas & Huband, JJ.A. — June 22.
- Manitoba Court of Queen's Bench*
- #34 — *R. v. Pollen* — juvenile delinquency — transfer application — effect of insanity defence on application to transfer — power of juvenile court to hold or direct treatment of insane juvenile — *Code*, s. 542 — 7 pp. — Wright, J. — Apr. 9.
- #37 — *R. v. McFall* — possession of narcotic with intent to traffic — sufficiency of evidence *re* issue of possession — control — *Code*, s. 3 & s. 4 — 13 pp. — Wilson, J. — Apr. 18.
- #47 — *R. v. Synanidis* — recognizance — application by Crown for alleged forfeiture — validity of certificate of default — whether accuseds had proper notice of trial date and/or of application for forfeiture — 9 pp. — Hamilton, J. — May 1.
- Manitoba County Court and Surrogate Court*
- #11 — *R. v. Cournoyea* — narcotics — possession — sufficiency of proof that accused had possession of drug — drug found in accused's wallet — wallet in apartment — accused not in apartment at time of search — 8 pp. — Jewers, C.C.J. — Feb. 5.

- #25 — *Leyes v. The Queen* — impaired driving — effect of ALERT roadside test on proof of charge — breathalyzer — expert evidence — failure of expert to comment on effect of alcohol on accused's system — 8 pp. — Lockwood, C.C.J. — Mar. 16.
- #31 — *R. v. Purves* — *mens rea* — income tax evasion charges — credibility of accused's claim *re* inadvertent omission of income — 21 pp. — P. Ferg, C.C.J. — Mar. 27.
- #32 — *Giftwares Wholesale Co. v. The Queen* — appeal — application for trial *de novo* rather than appeal on record — whether *Code* provisions at time of alleged offence or at time of application to be used — 19 pp. — Coleman, C.C.J. — Mar. 29.
- #46 — *Erickson v. The Queen* — trial *de novo* — application for *de novo* appeal trial — whether trial judge was biased and interfered with cross-examination — whether trial a nullity — indictable offence and summary conviction offence tried together — 11 pp. — Lockwood, C.C.J. — Apr. 23.
- #49 — *R. v. Wiens* — theft — fraud — commercial crime — dishonest deprivation by accused of moneys belonging to companies he controlled — whether theft and fraud distinct offences — 12 pp. — Philp, C.C.C.J. — May 3.
- #49a — *R. v. Rose* — sentencing — rape — first offender — mitigating factor — 5 pp. — Lockwood, C.C.J. — May 3.
- #51 — *McAuley v. The Queen* — assaulting a peace officer — difference between "duty" in *Code* s. 246 and "duties" in information — *mens rea* — accused resisting apparently unlawful entry by police — 13 pp. — Kennedy, C.C.J. — May 4.
- #52 — *R. v. Flett* — theft — identity of accused — proof of ownership in material allegedly stolen — whether offence of theft or false pretences committed — 12 pp. — Philp, C.C.C.J. — May 4.
- #54 — *Browning-Ferris Industries of Wpg. (1974) Ltd. v. The Queen* — multiple convictions rule — overweight vehicle — whether convictions possible under both city by-law and *Highway Traffic Act* — 11 pp. — Lockwood, C.C.J. — May 8.
- #59 — *Pearlman v. Kirkham* — common assault — private prosecution — provocation — 4 pp. — Barkman, C.C.J. — May 18.
- #81a — *Roulette v. The Queen* — "lawful excuse" — charge under *Migratory Birds Convention Act* — 9 pp. — P. Ferg, C.C.J. — June 25.

Evidence

Manitoba Court of Appeal

- #61a — *R. v. Archer* — murder charge — request for change of *venue* — admissions — character evidence — 1st or 2nd degree murder — 4 pp. — Freedman, C.J.M., Hall, Matas, O'Sullivan & Huband, J.J.A. — June 18.
- #65 — *R. v. Singh* — witnesses — murder charge — arson slaying of wife — admissibility of evidence — prior inconsistent statements by accused's son — interference with testimony of accused's daughter — unsworn evidence of child — hearsay — 13 pp. — Monnin, O'Sullivan & Huband, J.J.A. — June 22.

Manitoba Court of Queen's Bench

- #8 — *Larocque v. Belhumeur* — presumption of continuance — fatal car accident — determination of who drove one of vehicles in accident — 11 pp. — Morse, J. — Jan. 30.

Manitoba County Court and Surrogate Court

- #25 — *Leyes v. The Queen* — expert evidence — judicial notice — impaired driving charge — failure of expert to testify *re* effect of alcohol on accused's system — 8 pp. — Lockwood, C.C.J. — Mar. 16.
- #31 — *R. v. Purves* — appeal — findings of trial judge *re* credibility — powers of appeal court — 20 pp. — P. Ferg, C.C.J. — Mar. 27.
- #46 — *Erickson v. The Queen* — witnesses — cross-examination — interference by trial judge — whether judge biased — 11 pp. — Lockwood, C.C.J. — Apr. 23.
- #59 — *Pearlman v. Kirkham* — photographs — admissibility — weight — private prosecution for common assault — effect of accused's failure to call his wife as witness — 4 pp. — Barkman, C.C.J. — May 18.

Family Law

Manitoba Court of Appeal

#8 — *Hays v. Hays* — divorce — maintenance — application by husband to vary maintenance award — husband a pilot — employment status affected by medical disability — drop in income — 12 pp. — Monnin, Matas & O'Sullivan, JJ.A. — Jan. 23.

#9 — *Children's Aid Society of Wpg. v. Lambert* — guardianship — appeal by C.A.S. from temporary guardianship order — permanent order sought — mother's care inept and lacking concern — 4 pp. — Freedman, C.J.M., Monnin & Hall, JJ.A. — Jan. 24.

#30 — *Children's Aid Society of Wpg. v. Molyneaux* — protective guardianship — application by mother for guardianship of 3 children — mother successful *re* 2 children — motion by Society to stay judgment pending appeal — 5 pp. — Matas, J. (in chambers) — Mar. 27.

#46 — *Bogden v. Bogden* — divorce — application to vary award — whether trial judge was *functus* at time of application to vary — 1 p. — Monnin, Matas & O'Sullivan, JJ.A. — May 3.

#52 — *Somerset v. Somerset* — divorce — maintenance — effect of previous separation agreement on award of maintenance — 2 pp. — Monnin, Matas & Huband, JJ.A. — May 23.

#56 — *Fitzpatrick v. Social Services Advisory Committee* — social allowance — application for leave to appeal decision of Social Services Advisory Committee — male parent looking after children — unavailability for work — 2 pp. — Monnin, J.A. (in chambers) — June 4.

#59 — *Children's Aid Society of Wpg. v. Wishnowski* — permanent guardianship — two infants — appeal from order granting permanent guardianship to Society — mother with drinking and other problems — 15 pp. — Monnin, Matas & Huband, JJ.A. — June 27.

#63 — *Children's Aid Society of Wpg. v. Hastings* — permanent guardianship — two infants — appeal from order giving permanent guardianship to Society — delays in disposition of matter by Prov. Judges' Ct. — 4 pp. — Monnin, Matas & O'Sullivan, JJ.A. — June 20.

Manitoba Court of Queen's Bench

#7 — *Podolski v. Podolski* — will — wife excluded — claim under *Dower Act and Testators Family Maintenance Act* — how claim payable under terms of will — 3 pp. — Hamilton, J. — Jan. 26.

#17 — *Schofield v. Schofield* — divorce — 3-year separation — property — claim by wife to half-interest in land registered in husband's name — maintenance — lump sum award — 16 pp. — Morse, J. — Mar. 2.

#19 — *Gannon v. Gannon* — custody — application by father for interim custody of 2 daughters — 4 pp. — Hamilton, J. — Mar. 7.

#23 — *Chaboyer v. Chaboyer* — partition for sale — *Law of Property Act* — matrimonial home — joint tenancy — wife and children occupying matrimonial home — 8 pp. — Morse, J. — Mar. 21.

#35 — *Talwar v. Talwar* — divorce — proof of marriage — Hindu ceremony — oral evidence of marriage — 4 pp. — Kroft, J. — Apr. 9.

#45 — *Dalman v. Dalman* — divorce — maintenance — parties living separate and apart for many years — wife self-sufficient — maintenance sought by wife to compensate for previous financial difficulties — 4 pp. — Solomon, J. — Apr. 27.

#49 — *Grini v. Grini* — divorce — maintenance — application to vary maintenance award — illness of husband's 2nd wife — husband having employment problems — both parties in poor health — lump sum payment — 8 pp. — Kroft, J. — May 2.

#55 — *Chambers v. Chambers* — divorce — maintenance — no children — resolution of various disputes between parties *re* property — 6 pp. — Wilson, J. — May 26.

#63 — *Kramer v. Kramer* — divorce — mental cruelty — sufficiency of evidence — 4 pp. — Kroft, J. — June 7.

Manitoba County Court and Surrogate Court

#4 — *Dorge v. Naurocki* — custody — access — *Wives' and Children's Maintenance Act* — motion to vary father's right of access — validity of "fresh evidence" *re* paternity of child and mother's prospect of re-marrying — 19 pp. — Jewers, C.C.J. — Jan. 15.

#34 — *H. v. W.* — adoption — application by natural mother and her new husband — application allowed — access rights of natural father under decree *nisi* not terminated — 19 pp. — Jewers, S.C.J. — Apr. 3.

#64 — *Smith v. Smith* — separation — custody — whether one parent should have custody of all 4 children — maintenance — marital property — whether family farm a family or commercial asset — 12 pp. — L. Ferg, C.C.J. — June 1.

Insurance

Manitoba Court of Appeal
— None —

Manitoba Court of Queen's Bench

#57 — *Major v. M.P.I.C.* — automobile — single vehicle accident involving highway tractor — driver not having licence — validity of coverage — whether plaintiffs permitted unauthorized and unqualified driver to drive — 9 pp. — Hamilton, J. — May 30.

Manitoba County Court and Surrogate Court

#38 — *M.P.I.C. v. Lupyrypa* — automobile — subrogation — damage to vehicle driven without consent of owner — insurer's right to indemnification by driver — driver taking wrong car by mistake — *Act*, s. 21 — whether driver at "fault" — 6 pp. — Barkman, C.C.J. — Apr. 6.

#68 — *Lechman v. Fireman's Fund Insurance Co.* — indemnification — vandalism — exclusion clause *re* vacancy — whether premises vacant at time of vandalism — 6 pp. — Philp, C.C.C.J. — June 6.

Labour Law

Manitoba Court of Appeal
— None —

Manitoba Court of Queen's Bench

#39 — *Retail Store Employees' Union Local 832 v. Canada Safeway Ltd.* — strike — "hot goods" — refusal by employee of defendant to handle hot goods — *Act*, s. 12 — *locus standi* of union — scope of company's right to withhold pay for failure to handle hot goods — 14 pp. — Kroft, J. — Apr. 19.

#46 — *Association of Employees Supporting Education Services v. University of Man.* — arbitration — judicial review — excess of jurisdiction alleged — dismissal of employee for unauthorized absence — whether arbitrator went beyond grounds claimed by employer — 6 pp. — Wilson, J. — Apr. 30.

#66 — *Canadian Food & Allied Workers Local 216 v. Man. Labour Bd.* — *Employment Standards Act* — dispute *re* holiday pay — reference to Labour Bd. — jurisdiction of Bd. to interpret *Act* for purpose of resolving dispute — 5 pp. — Solomon, J. — June 19.

Manitoba County Court and Surrogate Court

#20 — *Elk Island Lodge Ltd. v. Pranteau* — *Payment of Wages Act* — application by employer to extend time to appeal Labour Bd. decision — standard of proof — 5 pp. — Kennedy, C.C.J. — Mar. 8.

#71 — *Beaton v. Lakeshore Contracting Man. Ltd.* — dismissal — lack of notice — *Employment Standards Act* — whether heavy construction employee protected by notice provisions of *Act* — damages in lieu of notice — 7 pp. — Jewers, C.C.J. — June 11.

Landlord and Tenant

Manitoba Court of Appeal

#45 — *Edison Rental Agency (1969) Ltd. v. Mudge* — residential tenancy — notice of termination by landlord — order of possession — late payment of one month's rent — late payment of rent adjustment ordered by Rent Stabilization Bd. — whether grounds for termination — 11 pp. — Monnin, Matas & Huband, J.J.A. — Apr. 27.

#59a — *Pension Fund Properties Ltd. v. Rainbow Rug Co.* — commercial tenancy — distress — whether distress remedy available to landlord at branch office of tenant company instead of at demised premises — *Act*, s. 40(1) — 3 pp. — Freedman, C.J.M., Hall & Matas, J.J.A. — June 11.

Manitoba Court of Queen's Bench

#21 — *Hlynsky v. Rent Stabilization Bd.* — rent control — right of landlord to seek increase above statutory limit — failure by landlord to meet limitation period — effect of incorporation — 5 pp. — Solomon, J. — Mar. 16.

#62 — *Edgewood Developments Ltd. v. Rent Stabilization Bd.* — rent control — *certiorari* — use of formulae to determine allowable increases — “allowable operating costs” — alleged inability of Bd. to determine accurately the applicant's income and expenses — 14 pp. — Hewak, J. — June 7.

Manitoba County Court and Surrogate Court

#15 — *R. v. Crawley & McCracken Co.* — mining company — accommodation provided to employee — whether landlord and tenant relationship created — *Act*, s. 123 — whether Part IV provisions “reasonably applicable” — requirement of notice for eviction — 29 pp. — Darichuk, C.C.J. — Mar. 2.

#22 — *Winnipeg Regional Housing Authority v. Elder* — order for possession — *Act*, s. 109(1) — claim by landlord for compensation *re* damage to leased premises — failure of landlord to include compensation claim in originating notice of motion — 4 pp. — Jewers, C.C.J. — Mar. 13.

#28 — *Leslie's Storage Ltd. v. Keystone Storage Ltd.* — commercial tenancy — dispute *re quantum* of rent owing — effect of notice of intention to vacate given by lessee — effect of re-entry by lessor — 5 pp. — Thompson, C.C.J. — Mar. 20.

#35 — *Vajcner v. Tellier* — residential tenancy — claim of rent owing — whether lease properly terminated by tenant — alleged disruption of right to quiet enjoyment — concurrent covenants — 9 pp. — Dureault, C.C.J. — Apr. 4.

#48 — *Fidelity Trust Co. v. Perkins* — application for possession — claim for use and occupation — whether remedies under *Act* available — applicant previously foreclosing on mortgage former owner refusing to vacate — whether former owner tenant or trespasser — 9 pp. — Kennedy, C.C.J. — May 2.

#65 — *Royal Realty Services Ltd. v. Kirby* — residential tenancy — breach by tenant — abandonment — damages — alleged failure to mitigate by landlord — 9 pp. — Coleman, C.C.J. — June 5.

#80 — *Herman v. Diamond Wax & Sanitary Supplies Co.* — commercial tenancy — eviction — attempt by landlord to pass increased fire insurance premiums on to tenant — 8 pp. — Barkman, C.C.J. — June 22.

Legal Ethics

Manitoba Court of Appeal

#16 — *Gordon v. Winnipeg, city of* — suit against municipality — alleged failure to comply with notice provisions of statute — “reasonable excuse” alleged for failure to comply — 7 pp. — Freedman, C.J.M., Guy & Hall, JJ.A. — Jan. 29.

#23 — *Hunt v. Avlonitis* — undue influence — action on promissory note given in share purchase agreement — claim that lawyer failed to reveal material facts — fiduciary relationship — 12 pp. — Monnin, Matas & O'Sullivan, JJ.A. — Feb. 23.

Manitoba Court of Queen's Bench

— None —

Manitoba County Court and Surrogate Court

#32 — *Giftwares Wholesale Co. v. The Queen* — appeal — application for trial *de novo* rather than appeal on record — whether *Code* provisions at time of alleged offence or at time of application to be used — 19 pp. — Coleman, C.C.J. — Mar. 29.

Local Government Law

Manitoba Court of Appeal

#16 — *Gordon v. Winnipeg, city of* — suit against municipality — alleged failure to comply with notice provisions of statute — “reasonable excuse” alleged for failure to comply — 7 pp. — Freedman, C.J.M., Guy & Hall, JJ.A. — Jan. 29.

#18 — *Imperial Broadway Tower Ltd. v. Winnipeg, city of* — business tax — assessment — proprietorship of parkade — parking spots rented to tenants whether “public parking lot” under s. 172 *City of Wpg. Act* — 10 pp. — Freedman, C.J.M., Monnin & Hall, J.J.A. — Feb. 7.

#19 — *Delta Apparel Industries Ltd. v. Portage la Prairie, city of* — water tax — failure by commercial tenant to pay — power of city to collect tax from landlord — *Municipal Act* — 8 pp. — Monnin, Matas & O’Sullivan, J.J.A. — Feb. 8.

Manitoba Court of Queen’s Bench

#4 — *Pearlman v. Winnipeg, city of* — orders of municipal officials *re* repairs or evacuation of property — claims in tort arising out of orders — motion to dismiss claims — whether orders in question covered by *City of Wpg. Act*, s. 122 & s. 123 — 4 pp. — Hamilton, J. — Jan. 19.

#5 — *Simplot Chemical Co. v. Brandon, city of* — *Municipal Assessment Act* — owner’s liability for tax on various components of fertilizer manufacturing plant — 8 pp. — Wilson, J. — Jan. 19.

#13 — *D.D.B.M. Holdings Ltd. v. Taylor* — assessment — mobile home — attempt by owner of trailer court to force mobile home owners to pay municipal taxes — failure of owner to complain to court of revision *re* liability to taxation — 9 pp. — Morse, J. — Feb. 14.

#14 — *Provincial Municipal Assessor v. Manitoba Beef Cattle Performance Association Inc.* — assessment — complaint — appeal from decision of court of revision — buildings occupied by respondent for purposes of testing bulls — whether a “farm” exempt from taxation — right of provincial municipal assessor to appeal decision of court of revision — 12 pp. — Morse, J. — Feb. 14.

Manitoba County Court and Surrogate Court

— None —

Negotiable Instruments

Manitoba Court of Appeal

#23 — *Hunt v. Avlonitis* — promissory note — attempt to deny liability — alleged undue influence of lawyer in share-purchase agreement — 12 pp. — Monnin, Matas & O’Sullivan, J.J.A. — Feb. 23.

Manitoba Court of Queen’s Bench

— None —

Manitoba County Court and Surrogate Court

#19 — *Bank of Montreal v. Binions* — holder in due course — cheque — payment stopped by drawer — drawer holding equitable claim against payee — whether bank a holder in due course — no notice of irregularities — 7 pp. — L. Ferg, C.C.J. — Mar. 7.

#47 — *Brown v. Mulligan* — cheque — stop payment — right of payee to sue under contract for unpaid debt — 5 pp. — Philp, C.C.C.J. — Apr. 25.

Personal Property

— None —

Real Property

— None —

Restitution

— None —

Taxation

Manitoba Court of Appeal

#18 — *Imperial Broadway Tower Ltd. v. Winnipeg, city of* — business tax — *City of Wpg. Act* — parking lot for commercial tenants of building — whether “public parking lot” — 10 pp. — Freedman, C.J.M., Monnin & Hall, J.J.A. — Feb. 7.

#19 — *Delta Apparel Industries Ltd. v. Portage la Prairie, city of* — water tax — failure by commercial tenant to pay — power of city to collect tax from landlord — *Municipal Act* — 8 pp. — Monnin, Matas & O’Sullivan, J.J.A. — Feb. 8.

Manitoba Court of Queen's Bench

#5 — *Simplot Chemical Co. v. Brandon, city of* — property tax — *Municipal Assessment Act* — owner's liability for tax on various components of fertilizer manufacturing plant — 8 pp. — Wilson, J. — Jan. 19.

#6 — *Jenpeg Constructors v. The Queen in rt. of Man.* — sales tax — assessment — *Retail Sales Tax Act* — construction — use of forms or molds for holding concrete — whether forms were "tangible personal property" — 12 pp. — Nitikman, J. — Jan. 22.

Manitoba County Court and Surrogate Court

#31 — *R. v. Purves* — income tax — evasion — filing false returns — consulting fees — intent — whether explanation *re* inadvertent omission credible — 21 pp. — P. Ferg, C.C.J. — Mar. 27.

#39 — *Panagopoulos v. Min. of National Revenue* — customs — seizure of vehicle brought into Canada — application by owner for order that his interest in car unaffected by seizure — 11 pp. — Jewers, C.C.J. — Apr. 9.

Torts

Manitoba Court of Appeal

#31 — *Beachman v. Renard* — damages — motor vehicle accident — back strain — pre-existing injury — depression — exaggeration of complaints by plaintiff — 4 pp. — Freedman, C.J.M., Matas & Huband, J.J.A. — Mar. 30.

#54 — *Tumak v. Piech* — negligence — contributory negligence — *Highway Traffic Act*, s. 144(1) — onus on defendant driver — whether plaintiff pedestrian was negligent — 2 pp. — Monnin, Hall & O'Sullivan, J.J.A. — May 28.

Manitoba Court of Queen's Bench

#8 — *Larocque v. Belhumeur* — negligence — fatal car accident — determination of who drove one of the vehicles involved in the accident — 11 pp. — Morse, J. — Jan. 30.

#15 — *Hendrickson v. Smith* — negligence — car accident — quantum of damages — plaintiff a commercial fisherman — effect of injuries on requirements of trade — severe tearing of shoulder and arm — 16 pp. — Hamilton, J. — Feb. 20.

#18 — *Johanas v. Donald* — damages — motor vehicle accident — whiplash — aggravation of pre-existing injury — headaches — dizzy spells — disruption of farming operations — 6 pp. — Solomon, J. — Mar. 4.

#24 — *Nagler v. Walecki* — negligence — adjoining landowners — claim that flooding on plaintiff's land caused by successive neighbouring landowners — 10 pp. — Solomon, J. — Mar. 22.

#26 — *Overland v. Aggarwal* — damages — fatal accident — deceased a retired man — casual work — loss of future earnings — *Fatal Accidents Act* award to widow — *Trustee Act* — 8 pp. — Dewar, C.J.Q.B. — Mar. 23.

#31 — *Hanke v. Huart* damages — pedestrian killed by car — *Fatal Accidents Act* — working mother killed in accident — day care — family service — loss of income — 7 pp. — Solomon, J. — Apr. 4.

#32 — *Thorsteinson v. Catellier* — damages — motor vehicle accident — personal injuries — foot injury — fractures to jaw, ribs, and clavicle — alleged damage to nervous system — personality change — university professor near retirement — effect of payments by employer — 20 pp. — Dewar, C.J.Q.B. — Apr. 5.

#33 — *Van der Aa v. Campbell* — damages — motor vehicle accident — personal injuries — suit against lawyers for failure to meet limitation period — spinal injury — pain and suffering — earnings loss — plaintiff building business at time of accident — 13 pp. — Solomon, J. — Apr. 6.

#43 — *Becken v. Cherewyk* — damages — car-pedestrian accident — amputation of both legs — earnings and bonus losses — loss of earning capacity — dismounting — pain and suffering — amenities loss — 15 pp. — Dewar, C.J.Q.B. — Apr. 24.

#50 — *Cherrey v. Steinke* — negligence — motor vehicle accident — suit by guest passenger — drinking — police chase — *volenti non fit injuria* — *ex turpi causa* — contributory negligence — damages — knee injury — hockey player — 21 pp. — Kroft, J. — May 7.

#52 — *Karpenko v. Winnipeg, city of* — damages — personal injuries — motor vehicle accident — rear-end collision — back, neck and knee injuries — effect on ability to do heavy work — 7 pp. — Wright, J. — May 11.

#56 — *Mondor v. Lepine* — negligence — motor vehicle accident — passenger injured — contributory negligence — damages — knee injury — previous disability — corrective surgery — 3 pp. — Hamilton, J. — May 30.

#58 — *Hildebrand v. Szalai* — negligence — motor vehicle collision — uncontrolled intersection-damages — severe personal injuries — legs — shoulder — wrist — scarring — damage to career — physical education instructor — hockey player and coach — 21 pp. — Kroft, J. — May 31.

#61 — *R. v. Buchinsky* — negligence — whether action lies in Crown to recover damages for loss of services of armed forces member — 4 pp. — Dewar, C.J.Q.B. — June 6.

#69 — *Sonsie v. Freier* — negligence — fatal accident — effect of drunkenness of plaintiff on claim for contributory negligence — damages — pecuniary loss — deceased recently purchasing hotel — 14 pp. — Wright, J. — June 22.

Manitoba County Court and Surrogate Court

#3 — *Cory v. Pomeroy* — negligence — spraying of plaintiff's oat and clover crop by defendant — 3 pp. — L. Ferg, C.C.J. — Jan. 3.

#16 — *Greenfield v. Dominion Motors Ltd.* — products liability — negligence — suit against car manufacturer — latent defect alleged — rusting — 81 pp. — Coleman, C.C.J. — Mar. 6.

#24 — *Dech v. Pimental* — negligence — car-pedestrian accident — improper lookout by driver — serious injuries — permanent residual effects — contributory negligence — 4 pp. — Keith, C.C.J. — Mar. 16.

#29 — *Sabiston v. Lawrence* — negligence — car-pedestrian accident — pedestrian struck by police car responding to emergency — contributory negligence — *Highway Traffic Act*, s. 99(1) — duty of pedestrian to yield to emergency vehicle — 20 pp. — Jewers, C.C.J. — Mar. 22.

#61 — *Commercial Publications Ltd. v. Aero-Tech. Corp.* — defamation — *Act*, s. 14 — alleged failure to notify publisher of defamatory material — whether publication a "newspaper" within scope of *Act* — 3 pp. — Jewers, C.C.J. — May 28.

#67 — *Eisentraut v. Graham* — negligence — damages — rear end collision — whiplash — 5 pp. — Kennedy, C.C.J. — June 6.

Transportation and Communication Law

— None —

Trusts

— None —

Wills

Manitoba Court of Appeal

— None —

Manitoba Court of Queen's Bench

#7 — *Podolski v. Podolski* — interpretation — exclusion of wife from benefits — claim by wife under provincial statutes — whether claim payable from residue of estate — 3 pp. — Hamilton, J. — Jan. 26.

#44 — *Peninsula Estates Ltd. v. The Queen in rt. of Manitoba* — compensation — riverfront farm property — market value — golf course or park as "highest and best use" — sale of comparable land in area — 16 pp. — Hewak, J. — Apr. 25.

Manitoba County Court and Surrogate Court

#2 — *Foster, re* — testamentary capacity — due and proper execution — undue influence — mental condition of 92-year old testator — 20 pp. — Lockwood, S.C.J. — Jan. 2.

#33 — *Gushuliak v. Prokopchuk* — probate — testamentary capacity — testator 94 years old at time will in question was drawn — 18 pp. — L. Ferg, S.C.J. — Mar. 29.

#74 — *Stybel, re* — validity — whether will properly executed — witnesses — lack of attestation clause — alteration of date — testamentary capacity — whether will nonsensical — 11 pp. — Lockwood, S.C.J. — June 15.

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