

Ferguson, J.]

[Jan. 27.]

BANK OF COMMERCE v. TOWN OF TORONTO JUNCTION.

*Municipal corporations—Treasurer—Tax sale—Power of Treasurer to pledge credit of corporation.*

A treasurer of a town has no authority to bind the municipal corporation by a contract to pay the cost of advertising his list of lands for sale for arrears of taxes. Under the Assessment Act, R.S.O. 1897, c. 224, s. 224, he is only persona designata to act on behalf of the municipality, and the municipality has no authority to interfere with him in the performance of his defined duties. A creditor in respect to the publication of such advertisements must look to him personally. *Warwick v. The County of Simcoe*, 26 C.L.J. 461, approved and followed.

*W. H. Blake*, for plaintiff. *C. C. Going*, for defendants.

Master in Chambers.]

[Feb. 5.]

CANADIAN MINING AND INVESTMENT CO. v. WHEELER.

*Judgment debtor—Examination of transferee—Third mortgagee—"Exigible under execution"—Rule 903.*

A third mortgage upon real estate made by a judgment debtor is not a transfer of property "exigible under execution," within the meaning of Rule 903, and the third mortgagee is not, therefore, liable to be examined as a person to whom such a transfer has been made. The words quoted refer to legal execution and do not include equitable execution or the appointment of a receiver.

*W. R. P. Parker*, for plaintiffs. *J. J. Maclellan*, for alleged transferee.

Meredith, J.]

[Feb. 8.]

IN RE MCALPINE AND LAKE ERIE AND DETROIT RIVER R.W. CO.

*Arbitration and award—Clerical error in award—Motion to refer back—Railway Act of Canada.*

Motion for an order referring back to the arbitrators, to enable them to correct a clerical error, an award made under the Dominion Railway Act.

*Held*, that if the Provincial legislation (R.S.O. 1897, c. 62) applied, the motion was needless, the arbitrators having power (s. 9 (c)) to correct the mistake. If that legislation were not applicable, there was no power to remit the award, nor to correct the error upon this motion.

Except under power conferred by statute, or by the parties, the Courts would not correct errors in awards, either directly or through the arbitrators; *Ward v. Dean*, 3 B. & Ad. 234; *Mordue v. Palmer*, L.R. 6 Ch. 22; and the Railway Act of Canada does not authorize the re-opening of a reference.

• *T. W. Crothers*, for claimant. *H. E. Rose*, for railway company.