

matin conclusion resulting from default, but the result of a deliberate agreement by which the mode of cancellation was arrived at. Notices of default were served according to the terms of the agreement in September, 1912, and the plaintiffs after receipt of such notices had made no move towards making their default or satisfactorily explaining their delay or asserting their right to redeem until the following March. The court held that the defendant was entitled to a declaration that the agreement had been cancelled.

Papineau v. Guertin, 15 D.L.R. 513, was decided by the Quebec Court of King's Bench in 1913. In this case a proprietor while he had a building in course of erection entered into a distinct contract with the builders to have work done, the doing of which caused the completion of the work originally contracted for to be delayed. The court held that he must be taken to have abandoned his right to enforce a purely penal covenant in the contract upon which he relied. The court, while realizing that the principles to be applied in the decision of the action differed from those which would be applied in English law, referred to *Public Works Commissioners v. Hills*, [1906] A.C. 368, and *Kilmer v. B. C. Orchards*, 10 D.L.R. 172.

Obituary

JOHN WINCHESTER, K.C., JUDGE OF THE COUNTY COURT OF THE COUNTY OF YORK, ONTARIO.

Judge Winchester died at his residence in Toronto, on the 8th inst., after an illness of a few months. His health had suffered from many years of hard work and assiduous attention to his arduous duties as a County Judge.

Mr. Winchester was born at Elgin, Scotland, August 27th, 1849. He came to Canada in early youth and was educated in Toronto, choosing the law as his life work, and was called to the Bar of Toronto in 1871. He served as a school trustee and alderman of the City of Toronto, and held other municipal offices. In 1882 he was appointed Registrar of the Queen's Bench Division of the High Court; and subsequently became Master in Chambers, on the death of his eminent predecessor, Mr. R. G. Dalton, Q.C.,. Four years later he was called inside the Bar.

Upon the death of Judge McDougall he was, in April, 1903, appointed Senior Judge of the County Court of the County of York. In this capacity he was called upon to hold a number of investigations, many of them of much interest in municipal circles.

Judge Winchester devoted himself without stint of labour and attention to the multifarious duties which pertain to the position of a County Judge. A good lawyer, of large experience of men and things, he gave great satisfaction to the public and the profession.