

Com. Pleas.]

NOTES OF CANADIAN CASES.

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tion, that is, to a condition in which a debtor is placed when he has not sufficient property subject to execution, to pay all his debts, if sold under legal process at a sale fairly and reasonably conducted.

The fact that all the assets are either mortgaged or under warehouse receipts is not alone sufficient to render a debtor insolvent.

McGee, for the plaintiffs.

G. T. Blackstock, for the defendant.

[O'Connor, J.

REGINA V. COLLINS.

*Canada Temperance Act, 1878—One justice in summons—Charge laid before two—Waiver—Week—Computation of time.*

The summons for an offence under the Canada Temperance Act, 1878, stated that he was charged with the offence before one justice. The information in fact was taken before two justices, one of whom issued the summons. The defendant appeared on the summons when the two justices were present raised no objection, and the defendant was tried and convicted.

Held, no objection could now be raised.

Sec. 46 of the Act provides that the hearing may be adjourned to a certain time and place, and no such adjournment shall be for more than one week.

Held, that the week must be computed as seven days exclusive of the day of the adjournment.

Aylesworth, for the Crown.

Masten, contra.

[O'Connor, J.

FAWCETT V. WINTERS.

*Referee—Report—Effect of—Reasonable and probable cause—Evidence.*

The report of a referee is equivalent to the verdict of a jury. It should state the referee's conclusions; and he need not give the reasons or his findings.

The referee found that there was a want of reasonable and probable cause for the defendant proceeding criminally against the plaintiff. It was objected that this was a finding of law and not of fact. The referee was a barrister.

Held, that this was equivalent to a verdict for the plaintiff rendered by a jury under instruction by a judge of what would be evidence of want of reasonable and probable cause; and on the evidence the findings could not be interfered with.

Holman and Birney, for defendant

H. J. Scott, for the plaintiff.

[Galt, J

CLAYTON V. MCCONNELL.

*Building contract—Termination of.*

In a building contract the defendant refused to pay the full amount due according to the terms of the contract, and caused the plaintiff delay in not having the joists ready at the proper time for plaintiff's use, and when asked for more money the defendant told plaintiffs to go on with their work, or, if they would not go on, to leave the building.

Held, that the plaintiffs were entitled to consider the contract at an end, and entitled to recover any balance that might be due them.

Roaf, for the plaintiff.

Lash, Q.C., for the defendants.

[Wilson, C.

REGINA V. MCAULAY.

*Indians, selling liquor to—Sale by wife—Service on wife—Conviction of husband—Jurisdiction of Indian agent.*

An information for selling liquor to certain Indians, giving their names, but without describing them, of any particular tribe or locality, was laid by R., of the township of Rama, before D. M., "an Indian agent by royal authority duly appointed," and alleged that defendant and Fanny his wife, or one of them, did on, etc., sell, etc., to the said Indians spirituous liquors contrary to the statute, etc. The summons issued thereon described D. M. as Indian agent, and shewed it was issued at Rama township. It was directed to defendant and his wife, who were described as of the township of Rama, and was served personally on the wife, and a copy left with her at their most usual place of abode for the husband. This was proved by an affidavit of service. The enquiry was held at Rama before D. M.,