

Ct. Ap.]

NOTES OF CANADIAN CASES.

[Q. B. Div.]

[November 24.]

McKELLAR ET AL. V. MCGIBBON.

Bill of sale—Registration—Possession.

The defendants seized goods in the possession of McL. under an execution against him, and the plaintiffs claimed the goods under an unregistered bill of sale given by McL. merely as security for indebtedness and without change of possession.

Held, reversing the judgment of the County Court of Lambton, that an ineffectual attempt by the plaintiffs to obtain possession of the goods was not sufficient to satisfy the Bills of Sale Act, and that the defendant was therefore entitled to succeed.

Aylesworth, for the appellant.

Street, Q.C., for the respondent.

[November 24.]

WALMSLEY V. GRIFFITH ET AL.

Appeal to Supreme Court—Time—Certificate—S. C. Act sec. 25.

Held, following the decision of the Supreme Court of Canada in *O'Sullivan v. Harty*, 22 C. L. J. 193, that the thirty days for appealing to the Supreme Court under sec. 25 of the S. C. Act will in all cases be computed from the date of issuing the certificate of the judgment of this Court.

Arnoldi and *J. A. Paterson*, for the defendants.

J. B. Clarke, for the plaintiff.

[November 24.]

IN RE THE CORPORATION OF THE TOWN OF OAKVILLE AND CHISHOLM.

Prohibition to county judge—Amending registered plan—Status of applicant—Assign—R. S. O. ch. III sec. 84.

The judgment of *PROUDFOOT*, J., 9 O. R. 274, granting prohibition to the county judge of Halton to restrain him from adjudicating upon C.'s application under R. S. O. ch. III sec. 84 to amend a registered plan was reversed.

Held, that the status of C. as a person who had registered the plan, or the assign of a person who had done so, was a question of law

and fact combined for the county judge—as it would have been for the High Court or a judge thereof had the application been made to such judge or Court under the statute—to determine on the cause of the injury, and that his decision was not examinable in prohibition.

Semble, whether or not C. was an assign, he was entitled to apply for the amendment as being a person who filed or registered the plan.

Moss, Q.C., for the appellant.

Lash, Q.C., for the respondents.

QUEEN'S BENCH DIVISION.

Cameron, C.J.]

RE BECKETT AND TORONTO.

Corporation—Expropriation.

Upon the petition of the corporation of the city of Toronto praying to be allowed to pay into Court \$32,370.50, balance of the compensation money awarded to the estate of the late Edward Beckett, for the expropriation of certain lands belonging to said estate for a Court House site, under the provisions of "The Consolidated Municipal Act, 1883," section 488, upon the ground that Mary Ann Beckett, the executrix and trustee under the last will and testament of the said Edward Beckett, deceased, had not the power under said will to sell the property until her son (then an infant eighteen years of age) attained the age of twenty-one years or died, or she herself married again, and therefore had not the absolute estate; and also that one McNeil had a rent charge or annuity charged upon the land of \$216 a year for her life, payable to one Sinclair.

Held, that the Act does not expressly authorize the payment into Court of the amount awarded; that section 488 is imperative and imposes upon the corporation the obligation of ascertaining whether the person acting in respect of the property expropriated is the absolute owner or not; and if he or she be not such owner, then the corporation is created a statutory trustee of the principal, burdened with the payment of 6 per cent. interest, until the person entitled to the principal claims the same.