

PRAC.] NOTES OF CANADIAN CASES.—BOARD OF TRADE IN THE MATTER OF J. B. MCKAY & CO.

Galt, J.]

[November 5.

HILLIARD V. ROYAL INSURANCE CO.

*Arbitration—Costs—Taxation—Time and expenses in travelling—Amount of fees.*

Upon an appeal from the taxation of costs of an arbitration which the plaintiffs were ordered to pay,

*Held*, that items in respect of the loss of time in travelling, and travelling expenses of an arbitrator, were properly disallowed.

*Held*, also, that the amount to be allowed *per diem* to arbitrators and counsel was a matter peculiarly within the province of the taxing officer, and his decision should not be interfered with.

A. H. Marsh, and Hilton, for the defendants.  
Kappele, for the plaintiffs.

Proudfoot, J.]

[November 9.

IN RE MCRAE AND THE ONTARIO AND QUEBEC RAILWAY CO.

*Arbitration—Railway—Costs—Taxation—R. S. C. c. 109, s. 8, sub-secs. 22, 23—Appeal—Witnesses—Subpœnas.*

By the Dominion Railway Act, R. S. C. c. 109, s. 8, sub-secs. 22, the costs of an arbitration as to the value of land expropriated for a railway may be taxed by the judge. The judge in this case, by an order not appealed against, referred the taxation to a taxing officer.

*Held*, that the question whether the judge had power to delegate the taxation could not be raised, and that an appeal lay from the taxing officer to the judge. By sub-sec. 23 of s. 8 of the Act, "the arbitrators . . . may examine on oath . . . the parties, or such witnesses as may voluntarily appear before them." In this case subpœnas were issued and witnesses attended upon them and were examined.

*Held*, that there was no power to compel the attendance of witnesses, and those who attended must have done so voluntarily; there was no power therefore to tax the subpœnas as such, but as they operated as notices, the proper costs of notices should be allowed, and

also the costs of the attendance of the witnesses.

Aylesworth, for the land-owner.

J. M. Clark, for the railway company.

Court of Appeal.]

[November 10.

BULL V. NORTH BRITISH CANADIAN INSURANCE CO.

*Appeal to Court of Appeal—Order of judge in court—Interlocutory order.*

An order was made by a judge of the High Court of Justice, sitting in court, for the execution by the defendants (mortgagees) of a reconveyance or discharge, directed by a previous judgment, or in default for a sequestration.

*Held*, that an appeal to the Court of Appeal lay without leave, whether it was to be regarded as interlocutory or not.

*Seemle, per* HAGARTY, C.J.O., and PATTERSON, J.A.—That such an order is not in its nature interlocutory.

C. Millar, for the plaintiff.

J. MacLennan, Q.C., and D. Urquhart, for the defendants.

REPORT OF THE COUNCIL OF THE BOARD OF TRADE IN THE MATTER OF J. B. MCKAY & CO.

The following is the report of the Council of the Board of Trade in the matter of Wm. J. and Ed. B. McKay, members of the board and members of the firm of J. B. McKay & Co., grain and commission merchants, doing business in the city of Toronto:—

The attention of the council having been formally directed to the conduct of Messrs. W. J. and E. B. McKay, members of the board and of the firm of J. B. McKay & Co., as it came out in evidence in certain arbitration cases recently held in these rooms, an investigation was instituted by the council in accordance with by-law No. 4. The Messrs. McKay have been duly charged with certain offences and having appeared before the council were heard at length in their own defence. The charges made against these members may be summed up briefly under three heads, viz.: