

Held, on an appeal, that knowledge on the part of C. that the transfer was being made to a nominee of the company would have vitiated the transfer, but as there was no evidence of any such knowledge, and as the transfer was made for a consideration paid to the "manager in trust" with no notice of the character in which he was to hold the shares, there was a valid transfer which would relieve the first holder and impose (as against creditors) liability on the transferee.

E. F. B. Johnston, Q.C., for the appeal.

Hilton, *contra*.

Practice.

Court of Appeal.]

[Jan. 14, 1890.]

IN RE O'DONOHUE, A SOLICITOR.

Solicitor and client—Præcipe order for taxation of bill and accounting—Jurisdiction of taxing officer under—Inquiry relating to bills not referred.

By an order obtained upon præcipe a certain bill of costs was referred to taxation, and the taxing officer was directed to take an account of all sums of money received by the solicitor of or on account of the applicants.

Under this the taxing officer taxed the bill and took an account of the moneys received by the solicitor, and in so doing inquired into and determined the validity of a disputed agreement in the nature of a compromise relating to some older bills of costs not referred to taxation, but which the solicitor claimed should be allowed at their face value against moneys received by him, and which the applicants claimed should be allowed only at the amount settled by the disputed agreement.

Held, per HAGARTY, C.J.O., and BURTON, J.A., that the officer had no jurisdiction under the order to determine the validity of the agreement.

Per OSLER and MACLENNAN, J.J.A., that he had jurisdiction.

The Court being divided, the decisions of ARMOUR, C.J., and the Common Pleas Divisional Court, 12 P.R. 612, were affirmed.

The solicitor, appellant in person.

W. M. Douglas, *contra*.

MACLENNAN, J.A.]

[Sept. 25.]

RE NORTH BRUCE DOMINION ELECTION PETITION.

MUIR v. MCNEILL.

Election petition—Time for filing—After office hours—Solar time.

Motion by the petitioner to disallow the preliminary objection to the petition filed by the respondent. The objection was that the petition was filed after office hours on the last day for filing it.

M. G. Cameron for the petitioner.

McCarthy, Q.C., for the respondent.

MACLENNAN, J.A. I am of opinion that the preliminary objection must be disallowed. I think the rule as to the keeping the offices of the court open from ten to three, or from ten to four, as the case may be, is merely directory and for the guidance of the officials, and does not forbid them to keep their offices open to a later hour, if they think fit, or if the business requires it. See *Rolker v. Fuller*, 10 U.C.Q.B. 477. This petition, therefore, was in time, the office being still open, and the petition having been received by the officer, although it was after three o'clock. . . . I am, moreover, of opinion that the petition was in time in any view of the Act and the rule. It was received by the officer as of that day, and Mr. Cameron, who filed it, swears that it was then not so much as a quarter past three by the public clocks. . . . The officer's act in receiving and filing the petition on that day and granting a certificate of the fact must be upheld, unless displaced by clear and satisfactory evidence. It is common knowledge that the time kept by the public clocks in Toronto is standard time, and that standard time is seventeen and one-half minutes faster than solar time. . . . That being so, the petition was in reality filed before three o'clock, and was in time according to the strictest construction of the rule. There can be no doubt that upon a question like this a party has the right to insist, in the absence of legislation or a rule of court, that solar time should govern; *Curtis v. Marsh*, 3 H. and N. 866.

The objection will be disallowed with costs.