

requires an appellant to file in the County Court an affidavit stating his bona fide intention to appeal within ten days after the decision complained of is given or made. It appeared that such failure had been entirely owing to the neglect of the County Court Clerk to notify the plaintiff's attorney of the decision when he received notice of it from the judge; that the day after the attorney received the clerk's letter informing him of the decision he sent the affidavit of intention to appeal required by the statute, and that all other steps in the appeal had been regularly taken.

Held, that under s.s. 326, 327 of County Courts Act, as amended by 59 Vict., c. 3, s. 2, a Judge of the Queen's Bench has power, on the motion to strike out, to give the appellant liberty to proceed with his appeal, notwithstanding the failure to comply with any requirement of the statute, and that such leave should be given in the present case, but only on payment of the costs of the motion, as the defendant had made it in good faith, and in ignorance of the special circumstances.

Held, also, that it was not necessary on entering the appeal with the Prothonotary to produce to him evidence that the appellant had furnished the security for costs of the appeal required by s. 321 of "The County Courts Act," as amended by 59 Vict., c. 3, s. 2, although it may be a reasonable and prudent thing to do.

Mathers, for plaintiff. *Pitblado*, for defendant.

TAYLOR, C.J.]

RE ROBERT DUNN.

[Jan. 31.

Tax sale—Expropriation Act, R.S.M., c. 56—Assessment Act, R.S.M., c. 101.

Application by Robert Dunn for payment out of court of a sum of money paid in by the Provincial Government on taking under the Expropriation Act, R.S.M., c. 56, a parcel of land for the purposes of a Home for Incurables. Dunn had, in June, 1893, bought the lot at a tax sale for \$3, paying in cash \$1.42, being the amount of the taxes and costs, and leaving a balance of \$1.58 which he should have paid within two months after the expiration of the time allowed the owner for redemption, or else, under s. 168 of the Assessment Act, R.S.M., c. 101, he forfeited all claim to the land purchased and to the money already paid. The Government expropriated the land after the tax sale but within the two years allowed for redemption. The owner did not redeem; but there was no evidence that Dunn had paid the balance of his purchase money.

Held, that the applicant had now no interest in the land or in the money in court which stood in place of the land, and that his application must be refused.

McKercher, for applicant.

Bain, J.]

KELLY v. WINNIPEG.

[Jan. 21.

Municipality—Ultra vires—By-law fixing minimum rate of wages for workmen employed by corporation.

The Council of the City of Winnipeg in 1895 passed a resolution providing for payment of a minimum rate of 17½ cents per hour to all workmen or laborers employed in any work by the city, or on any contracts for the city