Cameron, C.J.]

HODGSON v. BOSANQUET.

Municipal corporation—Arbitration and compensation—Reference to county judge.

A portion of a drain constructed by a township corporation having been dug on the plaintiff's land, an arbitration was had under the Municipal Act to ascertain the compensation the plaintiff was entitled to by reason of the damage alleged to have been sustained by him: (1) for land taken for the drain; (2) for the throwing of earth on the land on the side of the drain: (3) for the building of bridges to cross the drain; and (4) the backing of water into the plaintiff's cellar. The arbitrators found that the plaintiff had not sustained any damage, and they made an award against him, imposing on him a large portion of the costs.

Held, by CAMERON, C.J., that the evidence sustained all the grounds of damage except the last, as to which the evidence was not very satisfactory. The learned judge was therefore of opinion that he could not ascertain the compensation himself, and so set aside the award, and intimated that unless the parties could agree on new arbitrators, he was disposed to direct a reference to the county judge.

Aylesworth, for the plaintiff.

Lash, Q.C., for the defendant.

Galt, J.]

REGINA v. HALPIN.

REGINA v. DALY.

Canada Temperance Act, 1878—Day of adoption of Act—Accused not bound to criminate himself.

On an application to quash a conviction under the Canada Temperance Act of 1878,

Held, that the adoption of the Act is on the day of polling.

Held, also, that under sec. 123 of the said Act, a person accused is not obliged to criminate himself.

Robinson, Q.C., and *G. T. Blackstock*, for the applicants.

Edwards (of Peterborough), contra.

Proudfoot, J.]

YOUNG v. PURVIS.

Will—Disposition of real and personal estate—Appointment of executors—Description of land—Maintenance—Charge on land—Infant executor—Devastavit.

A testator by his will directed his executors "hereinafter named" to pay his debts and funeral expenses, and then devised the residue as follows:—To his son David, lot 16, concession 7, N. H., real and personal property; the said David to pay to each of his daughters $500, namely: Janet, Mary and Agnes, in two years after his death; Margaret and Ellen at twenty-five, and Christina to remain on the farm, the said sum to be given her when she became of age. No executors were named. Parol evidence was admitted to show that the land mentioned was in the township of Morris; that "N. H." meant north half, and that it was the only land owned by testator. Parol evidence was also admitted to show that Christina, though spoken of as a minor, was twenty-three years old when the will was made, and that she was of delicate constitution and of weak mind.

Held, that there was an effectual disposition of the real and personal estate; that to a disposition of personal estate executors need not be expressly named, but may appear by implication; and that David would be executor according to the tenor; that, as to the land, the parol evidence, which was properly admissible, cleared up any ambiguity as to the description; and that the parol evidence showed that as regards the provision in favour of Christina she must be treated as an adult; and that the provision for her would include maintenance.

An infant, whether executor or executor *de son tort*, is not liable for a devastavit. Legacies directed to be paid out of a mixed residue are a charge on land.

Garrow, Q.C., for the plaintiff.

M. G. Cameron, for the defendant Purvis.

Malone, for the Toronto General Trusts Company.
