

TEETZEL, J.

SEPTEMBER 6TH, 1904.

CHAMBERS.

RE KIRKBY AND CHURCHWARDENS OF ALL
SAINTS, COLLINGWOOD.

Arbitration and Award—Validity of Submission—Powers of Churchwardens — Agreement with Rector — Arrears of Stipend—Interest—Moneys Expended by Rector on Repairs.

Motion by the Rev. L. H. Kirkby to enforce an award made pursuant to an agreement of reference between him and the churchwardens of All Saints church in the town of Collingwood, under which he was awarded: (1) \$50 as the equivalent of interest on admitted arrears of stipend; (2) \$1,500 in respect of repairs and improvements done at his expense to the rectory house and property, with interest at six per cent. from 27th March, 1900. The arbitrators' costs and expenses were directed to be paid by the churchwardens, and each party was to bear his own costs of the arbitration.

By an order of this Court, dated 31st October, 1902, upon application for a special case, the arbitrator was directed in making his award to state on the face thereof the view of the law on which he proceeded, and it was further ordered that either party should be at liberty to move to set the award aside on the ground of error in any such view of the law.

After reciting the agreement of reference and the above order, the arbitrator stated: "I proceed in making this award on the assumption that the churchwardens had power to bind the vestry of the parish of All Saints, Collingwood, in their dealings with the incumbent and in the submission to arbitration. If there were otherwise any doubt as to the power of the churchwardens, I find that the matter was concluded by the action of the vestry at a special meeting thereof held on 29th October, 1900."

He then proceeded to make certain findings of fact, and stated: "Finding, as I do, an express agreement binding upon the churchwardens and upon the vestry in the spring of 1900, upon a new consideration, to pay an arbitrated amount for these improvements and repairs, it is unnecessary for me to consider the Statute of Limitations or the canon law which the churchwardens so strongly urged as a defence."