

Q. B.]

NOTES OF CASES.

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circumstances set out in the judgment, was held to be a valid insurance.

Bethune, Q. C., and *C. Moss*, for the appellants, *The Royal Insurance Co.*, and the respondents, *Mercantile Insurance Co.*

Rae, for the appellants, *The Citizens' Insurance Co.*

Ferguson, Q. C., and *Cassels*, for the respondents.

QUEEN'S BENCH.

IN BANCO.

Aug. 30.

FORAN V. McINTYRE.

Timber licenses—Rights acquired by Railway Company before Confederation over Crown lands—Assignees of Railway Company not liable for trespass thereon.

Held (ARMOUR, J., dissenting), that the timber licenses, claimed by the plaintiff, as licensee of the Ontario Government, were subject to the right of the Canada Central Railway Company, acquired before Confederation, to construct their road across the Crown lands, over which the licenses in question extended, and that the defendants, assignees of the railway company, were, therefore, not liable in trespass for entering upon and cutting timber on the said limits in prosecution of the work of building the road of the said railway company.

Bethune, Q. C., for plaintiff.

J. K. Kerr, Q. C., *contra*.

QUEEN V. LUCIEN BARNES.

Profanation of Lord's Day—Illegality of Sunday Concerts—Imp. Act 21 Geo. III., chap. 49.

The Imp. Act 21 Geo. III., chap. 49, prohibiting amusements and entertainments on the Lord's Day, to which persons are admitted by the payment of money, or by tickets sold for money, is in force in Ontario, and an application to quash a conviction thereunder for keeping a disorderly house, known as the "Royal Opera House," opened and used for public entertainment

on the Lord's Day, &c., was therefore refused.

Held, also, that the preamble of the Act reciting that it was intended to remedy mischiefs "in the Cities of London and Westminster" did not limit the enacting words, which were unrestricted and of general application to the whole kingdom.

Held, also, that the Act, as to its subject matter, being designed to promote Sabbath observance, is of general utility and application.

Held, also, that Imp. Statutes passed previously to the introduction of the Criminal Law of England into this country continue in force here, unless expressly repealed by Canadian Statutes, and the decision of this Court on the Mortmain Acts, in *Doe d. Anderson v. Todd*, 2 U. C. R. 82, disapproved.

Fenton, for Crown.

McCarthy, Q. C., and *Murphy*, *contra*.

IN THE MATTER OF THE GRAND JUNCTION RAILWAY COMPANY AND THE CORPORATION OF THE COUNTY OF PETERBOROUGH.

Railway Company—By-law in aid of—Refusal to issue debentures—Mandamus.

In December, 1870, defendants' council read twice a by-law, granting \$75,000 in aid of plaintiffs' railway, on certain conditions, secured by 20-year debentures, with interest and sinking fund. The by-law was approved by the ratepayers, but the council refused to read it a third time or act upon it. By 34 Vict. c. 48, O., the Legislature made valid the by-law, as if it had been read a third time, and directed the issue of the debentures; and other Acts were passed by the Ontario Legislature bearing on the question. No debentures were ever issued or provision made for interest or sinking fund.

Held, on application for *mandamus* to compel defendants to issue the debentures, that, in the construction of all the statutes, the council were bound to issue the debentures to the trustees appointed by the Legislature; CAMERON, J., dissenting as to the sufficiency of the appointment of trustees.