

TOWNSHEND, J. }
In Chambers.

[March 21.

PROVO *v.* CAMERON.

Pleading as to damage—Embarrassing plea—Tender in action for unliquidated damages.

To allegations in the statement of claim of damages suffered and expense incurred, defendant put in a plea of denial. He also pleaded tender before action brought, the suit being one for unliquidated damages. On motion to set aside both pleas,

Held, that though the former plea putting damages in issue was unnecessary under O. 21, r. 4, J.A., it was not therefore necessarily embarrassing, and there was nothing in the rules to prohibit such a plea; but that the latter plea raising a defence of tender must be struck out.

Fulton, for motion.

Russel, Q.C., contra.

TOWNSHEND, J., }
In Chambers.

[March 21.

IN RE MOOSELAND GOLD MINING CO.

Liquidation proceedings and restraining order—Leave to proceed on part of judgment creditor—Grounds of preference—How far substantial.

A levy having been made on the company's property on behalf of judgment creditors after a resolution to wind up had passed, the liquidator obtained an order under c. 80, sec. 50, R.S.N.S., restraining all further proceedings. The judgment creditors now applied for leave to proceed on the following grounds: (1) That the officers of the company, before the winding-up, had made false and deceptive statements of their intention to pay the said claim, thereby delaying the applicants in proceeding against them, and that when proceeded against they went into voluntary liquidation; (2) that their lien had been obtained before the restraining order was made.

Held, that as the interests not alone of the company, but of all the creditors of the company were involved, the first reason assigned afforded no sufficient ground for allowing applicants a preference for their claim; and as to the second the effect of the restraining order was to remove any lien they had obtained for the very purpose of preventing a preference.

Kenny, for application.

Mathers, contra.

Province of New Brunswick.

EQUITY COURT.

BARKER, J.]

[March 17.

RODGERS *v.* SCHOOL TRUSTEES, ETC.

School law—Sectarian schools.

Teaching in a convent building does not make a school sectarian within the meaning of the N. B. School Law, which provides that the schools shall be non-sectarian. Nor does the fact that the school is taught by sisters of charity who wear the garb peculiar to their order; nor that the teachers'