

Q. B.]

NOTES OF CASES.

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case any promissory note for a cash premium or for any payment or assessment on any premium note * * given to the Company or to any officer or agent, be not paid when due the policy * * shall be null and void, and the Company shall not be liable for any loss occurring before or after the maturity of such note :

Held, Armour, J., dissenting, that the statute had been sufficiently complied with as to the additional condition, which was sufficiently indicated and set forth so as to be binding upon the assured,

Held, Armour, J., dissenting, also, that that the condition was not an unreasonable one.

Robinson, Q. C., for plaintiff.

Bethune, Q. C., *contra*.

REGINA V. COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO.

IN RE JOHN MCCONNELL.

Medical practitioner—Conviction for felony—Erasure of name from register of physicians—37 Vic. ch. 30, ss. 34, 39—Mandamus to restore.

One C. was convicted in 1869 of manslaughter and sentenced to five years' imprisonment in the Penitentiary. Before its expiration his sentence was remitted, and in 1874 he applied to defendants for registration, and was duly admitted and placed upon the register as a bachelor of medicine. At the time of the application for registration the Secretary was not aware of the conviction, nor did he ask the applicant any questions. Subsequently on ascertaining the fact, under direction of the defendants, and without notice to C. the Secretary erased his name from the register.

Held, that C. had been guilty of no false or fraudulent representation within 37 Vict. ch. 30, sec. 39, O.

Held, also that C's. case was not within sec. 34 of the same Act which referred to the conviction for felony of a person already registered, as C. had been registered without fraud or misrepresentation after the whole period of punishment had elapsed.

A mandamus was therefore granted to restore his name to the register.

Robinson, Q. C. for applicant.

Kingsmill, *contra*.

GRAND HOTEL CO. V. CROSS.

Custom—Right to drink waters of spring—Highway—By-law.

Where the land in question had only been granted by the Crown less than half a century,

Held, that there could be no custom established to drink the waters of a spring situate thereon.

The road leading to the spring had been closed by the Township Council by by-law in 1858, and another road laid out instead.

Held, per HAGARTY, C.J., on the evidence set out in this case, that since that time the former road was not a public highway, but merely used for the convenience of persons frequenting the spring or the hotel and grounds connected therewith.

Held, also, per HAGARTY, C. J., that the Court ought not after the lapse of so long a time to entertain objections against the by-law closing the road in question.

Per ARMOUR, J., that the by-law in question had no effect to take away the character of the road as a highway.

C Robinson, Q.C., for plaintiffs.

Bethune, Q.C., and *Cross* for defendant.

ALLEN V. MCQUARRIE.

Action against Justice of Peace—Notice of action—Bona fides.

Held, in an action against a Justice of the Peace, where no notice of action is given, that a plaintiff in such action is entitled to have submitted to the jury, the question whether the defendant acted *bona fide*, or with colour of reason, in the act complained of, so as to entitle him to a notice of action under R. S. O. c. 73.

Hodgins, Q.C., for plaintiff.

Osler, *contra*.

O'SULLIVAN V. VICTORIA RY. CO.

Master and servant—Negligence.

Plaintiff, an employee of defendants, was sent by the foreman of the works to exca-