

[Prac.]

NOTES OF CANADIAN CASES.

[Prac.]

Boyd, C.]

[Nov. 17.]

FUCHES V. HAMILTON TRIBUNE COMPANY.

*Winding up order—Preferential claim for rent.*

On a reference for winding up the defendants under the Act 45 Vic., (D.) cap. 23, the local Master at Hamilton disallowed a claim made by the landlords of the defendants to be paid preferentially for nine months' overdue rent.

On appeal from the local Master, *Held*, that the rent having been overdue at the date of the commencement of the winding up proceedings and no steps having been taken by the landlords to assert their lien for rent till after that date, the Court will not aid the landlord.

Decision of the Master affirmed with costs.

*Walker*, for the appeal.

*Carscallen*, contra.

Boyd, C.]

[Nov. 17.]

LANGTRY V. DUMOULIN.

*Appeal from taxing officer—Certificate—Objections—Filing.*

An appeal from a taxing officer. The taxation was completed and the officer signed his certificate of the result on the 14th October. This certificate was not filed. On the 15th of October the officer issued a certificate to the appellant of the objections which had been made to his taxation upon which the appeal was based.

On objections taken to the appeal,

*Held*, that until the certificate was filed no proceedings could be taken under it or for the purpose of complaining of it. The officer erred when he certified *ex parte* after he had signed the certificate, as he was *functus officio* after making that certificate. The proper course was for the officer to include in his certificate the points of objection to his taxation.

*Arnoldi*, for the appeal.

*Alfred Hoskin*, Q.C., and *E. Douglas Armour*, contra.

Boyd, C.]

[Nov. 18.]

SWEETMAN V. MORRISON.

*Interpleader—Sheriff's costs—Security.*

*Held*, (on appeal by the claimant in an interpleader matter from the order of the Master in Chambers) that sec. 10 of the Interpleader Act, R. S. O. 50, authorizes security to be ordered for the sheriff's costs only in circumstances where it would be ordered as between ordinary litigants. The circumstances that the claimant was a married woman and in straitened circumstances, are not sufficient to warrant an order for security for the sheriff's costs from her.

*H. J. Scott*, Q.C., for the appellant.

*Aylesworth*, for the sheriff, and *Shepley*, for the ex-creditor, contra.

Boyd, C.]

[Nov. 19.]

RE ARMOUR, MOORE V. ARMOUR.

*Administration—Representation in this Province—Real estate—Necessary application.*

Upon a summary application for an order for the administration of the real and personal estate of the testator who died in Michigan, and whose will was proved there.

*Held*, that the practice of the Court is opposed to granting administration where representation has not been obtained in this country to the estate sought to be administered, unless, for one thing, it is very clearly established that there is no personal estate of the deceased within the jurisdiction in respect of which auxiliary letters probate could be obtained.

It is possible in this country to have an administration of the real estate without a general administration in a very special case, but that should be made upon pleadings and not by way of summary application.

*Justin*, for the motion.

*Masten*, contra.