

Com. Pleas Div.]

NOTES OF CANADIAN CASES.

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person has the right to question the validity of a patent, and that the intervention of the Attorney-General is not necessary.

Semble, also, that the minister's duties are ministerial and not judicial, and therefore his decision cannot be reviewed in a Court of law.

Held, also, that the minister is not required to examine witnesses under oath or to grant summons for the attendance of witnesses before him as the statute did not require it.

Quære, whether, if the minister act judicially, the Provincial Courts have jurisdiction to question his decision, it being that of a Court created by the Dominion Parliament.

An application for a *certiorari* to bring up all proceedings and papers before the minister for reviewal by this Court was therefore refused.

Lash, Q.C., and S. J. Wood, for the applicants.

F. Arnoldi and J. R. Roof, contra.

JACKSON V STALEY.

Libel—Publication—Evidence of

In an action of libel the alleged libel consisted of an account delivered by the defendant to the plaintiff. The account was headed "Mr. Joseph Jackson to Wm. Staley, Dr." A number of items were given with the dates, and amongst them the following: "Stole hay during winter, \$4; and stole one hatchet hammer, \$1.50." The plaintiff had been a servant of the defendant, and after a year's service, in consequence of a disagreement, left and asked for an account of amount due him for wages when the defendant sent the above account, which overbalanced the claim for wages, in an envelope by his (plaintiff's) then employer, M., who delivered it at the plaintiff's house, leaving it on the table between the plaintiff and his wife while at supper. The wife took it up and taking the account out of the envelope read it to the husband, who could neither read nor write. It did not appear that M. read the account or took it out of the envelope, and he was not called as a witness by plaintiff, or that the defendant knew that plaintiff could not read. The only evidence suggested of such knowledge was that defendant's wife had signed the contract

for plaintiff's service with defendant, but it did not appear that defendant's attention had been called to the fact, or that he knew that the signature was in the wife's handwriting, or that plaintiff could not read. The plaintiff brought an action on his claim for wages and was successful, and then under his solicitor's instructions brought his action for libel.

Held, that there was no evidence of publication and the action failed.

McIntyre, Q.C., for the plaintiff.

Britton, Q.C., contra.

BLAGDEN V. BENNETT.

Slander — Privileged occasion — Malice — School trustee.

The plaintiff, in connection with another trustee acting under the authority of the Board, purchased a quantity of firewood for use in the school-house. In December, shortly before the municipal and school trustee elections, the defendant, a rate-payer, and another school trustee were discussing the taxes when defendant said that they had paid too much for the wood; that plaintiff had culled the wood and had sold the best of it, and had drawn the culled wood to the school-house; and, on H. remonstrating with him, he said, "Oh, but he did, and I can prove it:" that he could prove it by a person named N. Subsequently, on Christmas Eve, defendant and B., a rate-payer and auditor of the school accounts, were discussing municipal matters and related a conversation he had had with W., who was a municipal councillor, that while the municipal taxes were lower the school taxes were higher; that N. had said the wood was No. 2, and it must have been culled, as No. 1 had been bought. It appeared that plaintiff, at the time he purchased for the school board, had purchased wood from the same person from whom he purchased the school board wood, which he sold on his own account. In an action of slander,

Held, ROSE, J., dissenting, that the words were spoken on privileged occasions, and there was no evidence of malice, and therefore there could be no recovery.

Carscallen, for the plaintiff.

Osler, Q.C., for the defendant.