

[Prac.]

NOTES OF CANADIAN CASES.

[Prac.]

PRACTICE.

Wilson, C.J.]

[October 29.

REGINA V. MEYER.

Criminal law—Refusing to provide for wife and children—Defendant a competent witness on his own behalf before a magistrate—Magistrates' powers and duties—32 & 33 Vict. ch. 20, sec. 25 (D.)—49 Vict. ch. 51, sec. 1 (D.).

Under 32 & 33 Vict. ch. 20, sec. 25 (D.), as amended by 49 Vict. ch. 5, sec. 1 (D.), defendant was charged by his wife, before a magistrate, with refusing to provide necessary food, clothing and lodging for herself and children. At the close of the case for the prosecution defendant was tendered as a witness in his own behalf. The magistrate refused to hear his evidence, not because he was the defendant, but because he did not wish to hear evidence for the defence; and subsequently, without further evidence, committed him for trial.

Held, that the defendant's evidence should have been taken for the defence; that a magistrate is bound to accept such evidence in cases of this kind, and give it such weight as he thinks proper, and that the exercise of his discretion to the contrary is open to review and correction.

Held, also, that the amended section of the Act is intended to enlarge the powers and duties of magistrates in cases of this nature, and that the word "prosecution" therein includes the proceedings before magistrates as well as before a higher court.

King (Berlin), for defendant.

E. F. B. Johnston, for the Attorney-General.

Mr. Dalton, Q.C.]

[Dec. 7.

Galt, J.]

[Dec. 14.

BURGESS V. CONWAY.

Appeal bond, liability on, after appeal allowed—Further appeal pending—Motion, notice of.

A judgment by the Court of Appeal in favour of a defendant appellant puts an end to all liability upon the appeal bond, which may, after such judgment, be delivered up to the

appellant, even where the other party has given notice of appeal to the Supreme Court of Canada. Notice should be given to the opposite party of a motion to take the appeal bond off the files.

Aylesworth, for the plaintiff.

George Kerr, for the defendant.

Mr. Dalton, Q.C.]

[Dec. 8.

DART V. CITIZENS' INSURANCE CO.

Defence—Jurisdiction—Service—Appearance.

The defendants appeared to the writ of summons, and set up in the statement of defence that the High Court of Justice had no jurisdiction; that the cause of action arose in Winnipeg, the defendants' head office was at Montreal, and the service of process was on their agent for local purposes at London.

Held, that there was nothing in these facts to show want of jurisdiction, and that the appearance had precluded all question as to the sufficiency of the service.

Rae, for the plaintiff.

Aylesworth, for the defendants.

Mr. Dalton, Q.C.]

[December 20.

Armour, J.]

[December 21.

MACGREGOR V. McDONALD ET AL.

Disobeying order—Contempt—Appeal—Staying proceedings.

A party who has been ordered by the court to attend for further examination, after a refusal to answer questions, is in contempt if he does not so attend, but that is not a bar to his appealing from the order. Proceedings under the order will not be stayed pending the appeal.

MacGregor, for the plaintiff.

H. Cassels, for the defendant