

From STREET, J.]

[Jan. 14.]

MACTAVISH v. ROGERS.

*Bankruptcy and insolvency—Assignments and preferences—Action by creditor in assignee's name—R.S.O., ch. 124, sec. 7.*

If a preferential security is successfully attacked by a creditor suing under order of the Court in the name of the assignee for the benefit of creditors, he can recover no more than his own claim and costs.

A creditor cannot, after obtaining such an order, increase the amount that he can recover by acquiring the claims of other creditors who have not been willing to consent to the proposed proceedings.

Judgment of STREET, J., varied.

Shepley, Q.C., for the appellant.

Watson, Q.C., and Smoke, for the respondents.

From STREET, J.]

[Jan. 14.]

IN RE HODGINS AND TORONTO.

*Municipal corporations—Sidewalks—55 Vict., c. 42, sec. 623 b, (O)*

Publication of an advertisement in a public newspaper having a large circulation in the municipality stating that the corporation intend to construct sidewalks in certain named districts, is not sufficient notice to a property owner affected by the proposed work.

The procedure to be observed in passing by-laws for the construction of sidewalks considered.

Judgment of STREET, J., 26 O.R., 480, affirmed.

Fullerton, Q.C., and Caswell, for the appellants.

F. E. Hodgins, for the respondent.

From MACMAHON, J.]

[Jan. 14.]

SMITH v. WALKERVILLE MALLEABLE IRON CO.

*Company—Share certificates—Estoppel—R.S.O., c. 157, sec. 52.*

A Company incorporated under the Ontario Joint Stock Companies Letters Patent Act, R.S.O., c. 157, issued a certificate stating that a certain shareholder was entitled to twenty-two shares of the capital stock, as he in fact at the time was. The shares were not numbered or identified, but the certificate was numbered and contained the words, "Transferable only on the books of the company in person, or by attorney on the surrender of this certificate." The shareholder assigned the shares to the plaintiff for value, and gave the certificate to him with an assignment endorsed thereon. The plaintiff gave no notice to the company and did not apply to be registered as a shareholder until several months had elapsed, and in the meantime the shareholder executed another transfer of the shares for value to an innocent transferee, who was registered by the company as the holder of the shares without production of the certificate.

Held, that the transfer to the plaintiff, in view of the provisions of section 52 of the Joint Stock Companies Letters Patent Act, R.S.O., c. 157, conferred upon him a mere equitable title, which was cut out by the subsequent transfer,