

Province of Manitoba.
COURT OF QUEEN'S BENCH.

BAIN, J.]

[Jan. 21.

GRUNDY v. MACDONALD.

County Court—New trial—Jurisdiction of County Court Judge—Setting aside judgment.

This was an appeal from an order of Walker, County Judge, setting aside a judgment entered in an action in the County Court of Selkirk, at the trial before Ardagh, County Judge, on 12th July, 1887, as against the defendant, J. R. Macdonald, for the amount of a note given by him for the price of a sewing machine bought from the plaintiff, and allowing him to amend his dispute note by setting up the plea of infancy.

The defendant alleged that at the trial in 1887, he notified the plaintiff that he would raise the plea of infancy, and that the suit was then settled verbally between the parties by the plaintiff agreeing to take back the sewing machine; and that he, the defendant, never knew that judgment had been entered until plaintiff had recently revived the judgment and issued execution against him. Plaintiff denied that any such agreement had been made.

Held, that under section 224 of the County Courts Act, then in force, the County Court Judge had no jurisdiction to set aside a judgment, or entertain an application for a new trial, or rehearing, after six months from the date when the judgment or decision was pronounced or given, and that the appeal should be allowed with costs.

Culver, Q.C., for plaintiff.

West, for defendant.

KILLAM, J.]

[Jan. 23.

LEADLAY v. MCGREGOR.

Life insurance—Mutual benefit society—Executors' claim to insurance money—Beneficiary entitled as against executors.

This was a special case submitted for the opinion of the Court, on the following admitted statement of facts. The plaintiffs were the executors of the will of Charles McGregor, deceased, who in his lifetime was a member of an unincorporated society known as the Order of Scottish Clans, which had a written constitution; one of its objects being stated to be to provide a bequeathment fund, from which a sum not exceeding \$2,000 should be paid to the beneficiary upon the death of any member.

At the date of the admission of Charles McGregor as a member of the order, the constitution and the regulations of the society provided that the amount named in the certificate of membership should be paid over to the beneficiary designated on his bequeathment certificate, and that no member should assign his bequeathment certificate, nor should such assignment be recognized by any officer of the society, and that such assignment should be