

C. P.]

NOTES OF CASES.

[Chan.]

the land of the plaintiff, a verdict was obtained for 1s. damages only, and there was no certificate for costs from the presiding judge. The master having refused to tax the plaintiff any costs, the plaintiff obtained a judge's order directing the taxation of full costs.

Held, that such order must be rescinded.

J. K. Kerr, Q.C., for the plaintiff.

D. B. Read, Q.C., for the defendant.

CHANCERY.

V. C. P.]

[Dec. 12.]

BURNS V. CHAMBERLAIN.

Common Law Procedure Act—Arbitration—Appeal from Award—Practice—Statutes 39 Vict. ch. 28, and 40 Vict. ch. 80.

A reference was made to W. H. W., one of the local Masters of the Court, in his individual, not official, capacity; the order expressing the same to be by consent, and that the award to be made in pursuance thereof should be appealable in the same manner as a Master's report.

Held, notwithstanding such consent, that the award could not be appealed from, and could only be moved against for cause, in the same manner as the award of any of the other arbitrators; the statutes 39 Vict., ch. 20, and 40 Vict. ch. 80, not applying to suits in Chancery.

V. C. P.]

[Dec. 12.]

WOOD V. THE HAMILTON AND NORTH-WESTERN RAILWAY COMPANY.

Railway Company—Right of Way—Arbitration—Demurrer—Agent of Company—Solicitor of Company.

In treating with the owner of lands for the privilege of crossing the same by a Railway Company, or in proceedings before arbitrators appointed between the owner and the Company, the solicitor of the Company as such, is not qualified to enter into any special agreement binding the Company to construct and maintain a crossing, or that the Company will execute an agreement under seal covenanting to do so.

V. C. P.]

[Dec. 12.]

MACNABB V. MCINNES.

Infant—Education—Presbyterian.

The mere fact that an infant was the child of parents belonging to the Presbyterian

Church, and she, so far, had been brought up in the discipline of that body, is not of itself sufficient to warrant the reversal of the Master's ruling approving of her being placed and educated at a Seminary, the proprietress of which was a member of the Church of England, it being shown that means were provided for the regular attendance of pupils of the Presbyterian persuasion at that church, and the location of the school being such that it enabled the infant, who was of a delicate constitution, to have much more frequent intercourse with her friends and relatives, and there was the probability of a stricter personal supervision by the proprietress than at a public institution in another part of the country, which was in connection with the Presbyterian Church in Canada.

V. C. P.]

[Dec. 12.]

MCDONELL V. REID.

Parties—Pleading—Demurrer—Interpleader.

The tendency of modern practice is to dispense with parties, where it can be done with safety: therefore, where in certain interpleader proceedings, one R. disclaimed any right to the proceeds of a sale under execution, and subsequently obtained possession of the property sold by means of a writ of replevin, but afterwards gave notice to the person holding the money that he claimed the proceeds of the sale, and forbade him paying back to purchaser, whereupon the latter filed a bill seeking to recover back the purchase money on the ground of an entire failure of consideration, to which he made R. a defendant, who demurred, as being not a necessary or proper party, the demurrer was allowed with costs, liberty being given to the plaintiff to amend, in order to make a better case, if so advised.

V. C. P.]

[Dec. 12.]

ARMSON V. THOMPSON.

Administration Suit—Claim of Widow in lieu of Life Estate.

Where land devised, subject to the payment of certain legacies, and to a life estate therein, is, after the death of the testator, sold at the instance of the mortgagee, the money remaining after payment of the mortgage debt will be treated in the same manner as if it were the land itself, and, if insufficient to pay all, the tenant for life and legatees will be paid ratably after the value of the life estate has been ascertained.