

Prac. Cases.] NOTES OF CANADIAN CASES.—ARTICLES OF INTEREST IN COTEMPORARY JOURNALS.

ing within period to be limited by the order, for leave to resell the property.

FERGUSON, J., doubted whether an order, which in fact amounted to a decree for specific performance, could be made under the Act.

A. C. Galt cited the case of *Thompson v. Ringer*, 44 L. T. 507, where a bill filed by a purchaser for specific performance, under circumstances similar to the above, was dismissed on the ground that the parties having once applied to the Court under the Act, all questions thereafter arising between them should be brought before the same tribunal on affidavit, without necessitating the expense of an action.

No cause was shown for the purchaser.

FERGUSON, J., followed the case cited, and made an order directing the purchaser to carry out his contract, in obedience to the former order, within two weeks, and in default for the vendor to be at liberty to re-sell, the purchaser to pay the costs of this motion, all costs of the re-sale, and any deficiency arising from the re-sale.

Cameron, J.]

[Sept. 17.

WILBY V. THE STANDARD FIRE INS. CO.

Leave to appeal to the Court of Appeal under sect. 38, O. J. A.

On the 7th of September, 1883, the plaintiff applied for leave to appeal from the judgment of the Queen's Bench given on the 30th of June, 1883, discharging his order *nisi* to set aside the verdict entered at the trial.

By sect. 38 of the O. J. A. it is provided that no appeal shall be allowed unless notice is given in the manner prescribed within one month after the judgment complained of, or within such further time as the Court appealed from, or a judge thereof, may allow.

The plaintiff excused his delay by an affidavit in which he stated that he was advised by his solicitor of the judgment of the Court on the 3rd of July, but that he did not see his solicitor till the 20th of August, when he, for the first time, learned that he should have caused notice of appeal to be served within a month of the judgment. The plaintiff further swore that he was advised that the case involved questions of law hitherto undecided, and also that another claim was pending in the Chancery Division which would be affected by the result of this case.

The case was one which the learned judge who tried it considered not wholly free from doubt.

CAMERON, J., held, that under the circumstances he was precluded by authority from enlarging the time for appeal, and dismissed the motion with costs, referring to the following cases: *In re New Callao*, L. R. 22 Chy. D. 486; *Craig v. Phillips*, L. R. 7 Chy. D. 249; *International Financial Society v. City of Moscow Gas Co.* L. R. 7 Chy. D. 241.

Oster, Q.C., for the plaintiff.

W. N. Miller, for the defendant.

ARTICLES OF INTEREST IN COTEMPORARY JOURNALS.

The privilege of counsel and solicitors acting as advocates.—*Irish L. T.*, May 19.

Bills of sale by way of security for payment of money.—*Ib.* June 2.

Contracts on unread conditions.—*Ib.* June 9.

Conditions in restraint of marriage.—*Ib.* June 16, 30, July 7.

Statements by prisoners.—*Ib.* June 23, (from *Justice of the Peace*.)

Betting agents and their principals.—*Ib.* June 30.

Liability for over-holding by under tenants.—*Ib.* July 14.

Employees and dangerous works.—*Ib.* (from *Justice of the Peace*.)

User of dangerous instrumentalities for the protection of property.—*Ib.* July 21, 28.

The right to the custody of children.—*Ib.* Aug. 11, 18, 25.

Common words and phrases—(Require—May—Obvious danger—Lottery—Seaman—Insolvency—Gone east—Fairly merchantable—Abandoned—Lost—Seize—Device—Emberzle—Manual labour—Ecclesiastical purposes—Issue—Children—Common school.)

—*Albany L. J.*, June 9.

(Regular passenger trains—Locomotive—Engine—Speed—Front part—Assigns—Trial—Premises—Cribs—Wharfage.)—*Ib.* June 30.

(Lessee—Indorsed—Brought—Commenced—Navigable—Article of manufacture—Debt owing or accruing—Permit—Open—Property—Debtor having a family—Manufacture—Wearing apparel.)—*Ib.* July 7.

Evidence of custom to explain contract.—*Ib.* June 16.

Independence of married women.—*Ib.* June 23.

Defaulting purchaser at judicial sale.—*Ib.* June 30.

The presumption of knowledge.—*Ib.* July 7.