

expiration of twelve months, whether the space had been used or not, to pay \$1,000 less such sums as might have in the meantime been paid. The advertiser before using any space, and before the expiration of twelve months, made an assignment for the benefit of creditors pursuant to R.S.O. c. 124.

Held, reversing the judgment of BOYD, C., 28 O.R. 326; 33 C.L.J. 289, that the \$1,000 would not necessarily become due by effluxion of time, and that the newspaper company could not rank. *Grant v. West*, 23 A.R. 533. applied.

Thomson, Q.C., for appellant. C. J. Holman, for respondents.

From Street, J.] *CEPRI v. ANCIENT ORDER OF FORESTERS*. [Jan. 11.

Benevolent society—Life insurance—Mistake as to age.

S. 6 of the Ontario Insurance Amendment Act, 1889, 52 Vict., c. 32 (O.), does not apply to benevolent societies having an age limit for admission to membership, and where a man who was older than the age limited was, owing to his innocent misrepresentation as to his age, admitted a member and given an endowment certificate, it was held that the beneficiary named therein could not recover.

Judgment of STREET, J., 28 O.R. 111, reversed, MACLENNAN, J.A., dissenting.

Ayleworth, Q.C., and McWatt, for appellants. G. G. Mills, for respondent.

From Robertson, J.] *COLL. v. TORONTO R. W. CO.* [Jan. 11.

Master and servant—Damages—Tort—Wrongful act of servant—Scope of employment.

The master is not liable for the wrongful act of the servant, though done during the course of his employment and intended to promote the master's interest, if it is an act outside the scope of the servant's employment and authority and is one which the master himself could not legally do.

The defendants were held not liable where the motorman of one of their electric cars, who had no control over or authority to interfere with passengers or persons on the car, pushed off the car, as the jury found, a newsboy who was getting on to sell a paper to a passenger. Judgment of ROBERTSON, J., reversed.

J. Bicknell, for appellants. Aylesworth, Q.C., and L. V. McBrady, for respondent.

From Rose, J.] [Jan. 11.

RE CANADIAN PACIFIC R.W. CO., AND COUNTY AND TOWNSHIP OF YORK.
Railways—Highways—Crossings—Maintenance of gates—Apportionment of cost—Constitutional law—Railway Committee—Railway Act, 1888, 51 Vict., c. 29 (D).

The Railway Committee of the Privy Council, on the application of the City of Toronto, ordered the Canadian Pacific Railway Company to put up gates and keep a watchman where the line of railway crossed a highway run-