

C. of A.]

NOTES OF CASES.

[C. L. Cham.

From Proudfoot, V. C.]

[Jan. 14.]

PARDEE V. LLOYD.

Award—Consent reference—Time—Motion to set aside award.

A reference to arbitration had been made by the consent of the parties, and the award of the arbitrator was made in August, 1878, and published before Trinity Term of that year.

The plaintiff moved against the award in November, 1878, before V. C. Proudfoot, who set it aside, the defendant objecting that the motion was made too late.

Held, reversing the judgment of the Vice-Chancellor, that the motion should have been made before the last day of Trinity Term.

From Proudfoot, V. C.]

[January 14.]

GREEN V. PROVINCIAL INSURANCE CO.

Deposit by Insurance Company—Creditors entitled to rank therein.

The defendants were licensed under 31 Vict., c. 48, to transact fire and inland marine insurance, while their original charter authorized the transaction of fire and marine insurance without distinction of ocean from inland marine.

Held, affirming the decree of Proudfoot, V. C., that the holders of ocean marine policies, though resident in Canada were not, on the insolvency of the defendants, entitled to rank as creditors on the fund deposited and remaining with the Government of Canada.

Miller and Biggar, for the appellants.

McCarthy, Q.C., and Creelman, for the respondents.

Appeal dismissed.

[Jan. 15.]

NORVAL V. CANADA SOUTHERN RAILWAY COMPANY.

Award—Misconduct of Arbitrator.

The fraudulent, improper, or malignant conduct of the arbitrator alone, without any collusion with the person seeking to enforce the award is no defence to an action upon the award.

Crooks, Q.C., and Cattnach for the appellant.

Blake, Q.C., and Boyd, Q.C., for the respondent.

Appeal dismissed.

From Moss, C. J. A.]

[January 20.]

McPHERSON V. McKAY.

Presbyterian Church of Scotland—Union—Congregational Property.

In 1836, by letters patent, lands were granted to trustees in fee, to hold the same to and for the benefit of the Presbyterian minister for the time being, Incumbent of the Presbyterian Church of Scotland, then erected in the Township of Eldon. The defendant who had always been a member of such Presbyterian body, was duly inducted as Incumbent of the said church, and so continued, when in 1875, an Act of the Legislature of Ontario was passed for the Union of the several Presbyterian churches then existing in Ontario; but the members of this church voted themselves out of the said Union as provided by the Act, notwithstanding which the defendant gave in his adherence to the Union.

Held, affirming the judgment of the Court below, that, under these circumstances, the lands granted by the said patent, as also the church and other buildings erected thereon, belonged to, and were the property of the congregation, and that the defendant having joined the Union was no longer entitled to hold possession or receive the benefits of the same.

MacLennan, Q.C., for the appellant.

A. MacLean, for the respondent.

Appeal dismissed.

COMMON LAW CHAMBERS.

Armour, J.]

[December, 1879.]

THE DOMINION TYPE FOUNDRY COMPANY
V. NAGLE.

Execution—Sheriff's costs—Taxation.

Held, that a Sheriff's bill of fees may be taxed on notice under sec. 48 of the Execution Act, R. S. O., c. 66, either at Toronto, or in the Sheriff's own county, as the party taxing may elect.