

referee into believing that his report would be dated 20th January instead of 17th January, and that he was instructed and believed there was a good ground of appeal from the report.

Held, that such orders should not be made *ex parte*.

G. T. Blackstock, for plaintiff.

Watson, for defendant.

Proudfoot J.]

[Feb. 19.]

RE BATT, WRIGHT V. WHITE.

Executor—Commission.

An administration matter. Securities amounting to about \$3,238.25, were either in the hands of the plaintiff at the testator's death, or were handed to her by the defendants (the executors) immediately afterwards. The plaintiff was an executrix and residuary devisee of the testator.

Held, that under this state of facts, the executors were not improperly allowed a commission in respect of that sum.

The total amount of their disbursements, including this \$3,238.27, was \$8,228.87.

Held, that \$400 allowed by the Master at London, was not excessive.

Hoyles, for plaintiff.

F. E. Hodgins, for defendants.

Mr. Dalton, Q.C.]

[Feb. 24.]

KOHFREITSCH V. MCINTYRE.

Promissory note—Defence of fraud—Practice.

In an action on a promissory note, the seventh paragraph of the statement of defence was as follows :—

"The defendant further says she was induced to sign the said note by the fraud of the plaintiff or others, with the plaintiff's consent or knowledge, at the time of his receiving the same."

Held, on a motion to strike out the defence in default of particulars, that particulars should not be furnished, but the circumstances of the fraud should be set out in the statement of defence in a similar manner to the mode of pleading under the old Chancery practice.

Order accordingly.

Holman, for plaintiff.

Aylesworth, for defendant.

Mr. Dalton, Q.C.]

[March 2.]

REG. EX REL. BRINE V. BEDDOME.

Municipal councillor—Qualification—Relator—Costs.

The assessed value of his property determines the qualification of a municipal councillor.

The relator being an auditor of the corporation, the Master in Chambers, under *Regina ex rel. McMullen v. De Lile*, 8 U. C. L. J. 291, gave no costs.

Summons absolute to unseat respondent, and for new election accordingly.

Aylesworth, for relator.

H. W. M. Murray, contra.

Osler, J.]

[March 2.]

COGHILL V. CLARK.

Promissory note—Discretion of Master in Chambers—Amendment.

Action on a promissory note. The defendant applied for leave to amend his statement of defence by alleging that the note was not properly stamped, the note having been made before the repeal of the Stamp Act.

The MASTER IN CHAMBERS *held*, that under sect. 270, R. S. O. cap. 50, the defendant, as a matter of right, was not entitled to add this defence, as he had already set up a complete defence, if proved, and as he thought the defence of want of stamps was one without merit, he, as a proper exercise of his discretion, refused leave to add it.

On appeal the judgment of the Master was upheld.

Rose, Q.C., for defendant.

Justin, (Brampton), for plaintiff.

Mr. Dalton, Q.C.]

[March 3.]

REG. EX REL. BRINE V. BOOTH.

Municipal Councillor—Qualification—Liquor license.

On the 9th December, the liquor license of Booth Bros., of which firm respondent was a member, was transferred to one of the partners, T. W. Booth. The nomination took place on 22nd December.

On the books of the Registry Office, the respondent's freehold property appeared incumbered to nearly its assessed value. It was shown