

Prac.]

NOTES OF CANADIAN CASES.

[Prac.]

and the clerk in the Toronto office, who accepted, in the defendant's name, the bill of exchange sued on, where the defendant himself lived out of the jurisdiction.

Holman, for the plaintiff.

Ogden, for the defendant.

Mr. Dalton, Q.C.]

[April 18.

GRANT V. MIDDLETON.

Notice of trial—Irregularity.

A notice of trial in an action brought in the Queen's Bench or Common Pleas Division given for a special sittings for the trial of actions in the Chancery Division is irregular and will be set aside.

Holman, for the defendant.

A. H. Meyers, for the plaintiff.

Boyd, C.]

[April 20.

MASSE V. MASSE.

Transferring action to another division—Jury notice—Rule 545 O. J. A.

In an action for the recovery of land, the writ of summons issued compulsorily in the Chancery Division pursuant to Rule 545 O. J. A., and a jury notice was served by the defendant. A motion was made by the plaintiff to strike out the jury notice, and a cross-motion by the defendant to transfer the action to another division.

Held, that the object of Rule 545 being to equalize the business in all divisions of the High Court, an action will not now be transferred from one division to another except on very strong grounds. It was impossible to say on the facts disclosed that this action would be better tried by a jury than by a judge alone, and the jury notice should therefore be struck out and the action retained in the Chancery Division. The decision in *Bank of B. N. A. v. Eddy*, 9 P. R. 468, is much affected by Rule 545.

J. C. Hamilton, for the plaintiff.

W. H. P. Clement, for the defendant.

Mr. Dalton, Q.C.]

[April 21.

MACDONALD V. PIPER.

Costs—Action by solicitor against client—Reference to taxation—Rule 443 O. J. A.

In an action by a solicitor against his client to recover the amount of a bill of costs rendered, the defendant disputed the retainer, and the plaintiff moved for an order referring all the questions in the action and the taxation of the bill to one of the taxing officers.

Held, that by Rule 443 O. J. A. and Form 136, the former practice has been changed, and an order referring a bill of costs to a taxing officer should not direct the officer to do more than ascertain the proper amount of it.

Held, also, that an action having been brought on the bill in question it would not be proper to refer the question of liability which arises in the action to the decision of a taxing officer.

George Bell, for the motion.

Moffatt, contra.

Proudfoot, J.]

[April 22.

MORTON V. HAMILTON PROVIDENT LOAN SOCIETY.

Costs—Scale of—Claim to equitable relief—Rule 515 O. J. A.

The plaintiff mortgaged certain lands to the defendants, and the mortgage becoming in default the defendants sold the lands under their power of sale, and afterwards rendered a statement claiming \$182.61, as due to them under their mortgage in addition to the amount derived from the sale, and such amounts as had been paid by the plaintiff before the mortgage became in default.

The plaintiff brought this action claiming that the defendants had received much more than they were entitled to, and asked to have account taken of the sums due on the mortgage and of the sums received by the defendants, and that the defendants might be declared trustees of the plaintiff in regard to that money, and might be ordered to account for it.

The action was referred to a Master, who reported that he had taken the accounts, and that he found a balance due to the plaintiff of \$123.27.