

plaintiff, as the defendant could at once request the trustee to sell the property.

Motion dismissed. No costs.

Shepley, for the plaintiff.

C. J. Holman, for the defendant.

GALT, C. J.]

[March 28.]

NELSON v. COCHRANE.

Parties—Action to charge annuity on land—Subsequent incumbrancer.

In an action for arrears of an annuity and to declare the same a charge on land, mortgagees of the land whose mortgage was subsequent to the will creating the charge and subject to the terms of it, were made defendants by the writ of summons; but on their own application immediately after delivery of statement of claim, their name was struck out with costs.

Masten, for the plaintiff.

E. B. Brown, for the Imperial Loan Company.

GALT, C. J.]

[April 1.]

In re ELLIOTT v. NORRIS.

Prohibition—Division Court—Territorial jurisdiction—Transcript to another Division Court after judgment.

A plaint was brought in the First Division Court of Middlesex upon a contract signed by the defendant, dated at London, to pay to the order of the plaintiffs at London, "\$16 in wood delivered on the Hamilton & North Western Railway," which was not in Middlesex. The defendant resided in the County of Simcoe.

Held, that the Court in which the plaint was brought had no jurisdiction. The defendant filed a notice disputing the claim and the jurisdiction, but did not appear at the trial, and judgment was given against him. Subsequently a transcript of the judgment was transmitted to the Seventh Division Court of Simcoe.

Held, that the judgment did not thereby become a judgment of the Simcoe Court, and prohibition to the Middlesex Court was granted after such transmission.

J. B. Clarke, for plaintiffs.

T. M. Howard, for defendant.

FERGUSON, J.]

[April 3.]

CAMERON v. PHILLIPS.

Administrator ad litem—Rule 311—Security.

In a mortgage action in which foreclosure only was sought, it was stated that the lands were not equal in value to the mortgage debt. The mortgagor being dead and having left no estate whatever except the equity of redemption sought to be foreclosed, the executor named in the will of the mortgagor, which had not been offered for probate, was appointed administrator *ad litem* without security under Rule 311.

J. B. O'Brian, for the plaintiff.

BOYD, C.]

[April 8.]

HENDRICKS v. HENDRICKS,

Local master—Jurisdiction of—Rule 1187—

Partition and administration—Taxed costs in lieu of commission.

Held, that a local master has no jurisdiction to make an order under Rule 1187, allowing the parties to an action or proceeding for administration and partition taxed costs instead of the commission provided for by the rule, "unless otherwise ordered by the Court or a Judge."

This was an action in which a judgment for partition and administration was pronounced by BOYD, C.

Held, that more especially in this case a local master had no power to interfere, for by ordering taxed costs instead of commission he was varying the judgment.

F. W. Harcourt, for the infant, defendants.
Langton, for the plaintiffs.

Hoyles and W. H. Blake, for the adult defendants.

BOYD, C.]

[April 9.]

HEATON v. MCKELLAR.

Joinder of parties—Action to set aside fraudulent conveyances—Several grantees.

Action by the plaintiff on behalf of himself and all other creditors of the defendant L., asking for judgment against L. upon two overdue promissory notes and seeking to obtain execution for such claim and also a previously recovered judgment against two several parcels of land, alleged to have been fraudulently con-