

Chan. Ch.]

NOTES OF CASES.

[Chan. Ch

Spragge, C.]

[Jan.

RE BENDER.

Devisee raising money on mortgage.

By his will C. B. devised to his wife "the whole of his real and personal estate upon trust, to take and receive all the rents and profits thereof, and thereout to pay all and any amounts due on the house on John street and also the one on King street, and also just debts, and to support herself and children until such time as the youngest child should attain the age of 21 years, and then to divide as directed. There were six children, the youngest of whom was four years and ten months old.

This was an application by the widow for leave to raise by way of mortgage on the King street property \$13,000 at 6 or 6½ per cent. for the purpose of paying off certain existing mortgages amounting to \$11,000 at 8 per cent., and with the balance putting up an addition in the rear of the building. The premises in question were leased for a term which would shortly expire. The warehouse not being large enough for lessees to transact their business, they offered, if an addition was put up in the rear of it, to renew for a term, and pay, besides rent, \$100 yearly in reduction of the cost of the addition, and 10 per cent. on such cost until the same should be recouped to the estate.

It appeared that the addition would considerably increase the value of the property, as well as of the lessee's business. It also appeared that the testator had been a member of the lessees' firm, and part of his personal estate consisted of a bond from them for the testator's share of the business. It was considered that the payment of the amount of the bond would be accelerated by an extension of the lessee's business.

SPRAGGE C. granted the application.

Spragge, C.]

[Jan. 31.

RE DONALD McMILLAN

PATTERSON V. McMILLAN.

In a partition matter before a local master under G. O. 640, the defendant, who occupied the property, claimed an absolute title by possession, under the Statute of Limitations.

The Master continued the enquiry and proceeded to take evidence.

Hoyles asked for the direction of the Court.

Symons appeared for the plaintiff.

SPRAGGE, C. directed the plaintiff to file a bill within two weeks, and parties to go to a hearing at the ensuing sittings at Cornwall, costs to be costs in the cause.

Referee.]

Proudfoot, V. C.]

[January.

KNOWLTON V. KNOWLTON.

Security for costs—Nominal plaintiff—Waiver.

A petition by the defendant to reduce the amount of alimony allowed in the suit came on to be heard on the 5th Oct. Counsel for the plaintiff appeared and procured an enlargement for two weeks to answer affidavits, and the same day demanded and received copies of them. On 19th October counsel appeared and obtained a further enlargement for two weeks, but before the time expired applied for an order for security for costs on the grounds stated below.

Held, without expressing an opinion on the merits, that the plaintiff had waived her right, if any to security for costs.

Black, for petitioner.

Hoyles, contra.

MASTER'S OFFICE

The Master.]

[Jan. 11.

FERGUSON AND ENGLISH & SCOTTISH
INVESTMENT CO.

Costs—Mortgagor and mortgagee—42 Vict., c. 20, s. 11, (Ont).

A mortgagor is entitled under 42 Vict., c. 20, s. 11, to obtain an appointment to tax the mortgagee's costs of sale under the power in the mortgage, notwithstanding that the mortgage is executed before the passing of the act.

G. H. Watson, for mortgagor.

Davidson, for mortgagee.