

## CORRESPONDENCE.

C. P. Div.]

[Sept. 5.]

BULL V. NORTH BRITISH LOAN CO. ET AL.

*Order made at trial—Judge in chambers—Res judicata—Jurisdiction of Divisional Court.*

At the trial of the action at the Toronto Assizes ARMOUR, J., endorsed in the record: "Upon my own motion I order that the place of trial in this cause be changed to the town of Belleville, and that this cause be tried at the next assizes there by a jury."

ROSE, J., sitting in chambers, had previously refused to change the place of trial from Toronto to Belleville.

*Held*, that the question of place of trial was *res judicata* by the judgment of ROSE, J.

*Held*, also, notwithstanding sec. 28, sub-secs. 2 and 3, O. J. A., that the Divisional Court had jurisdiction to hear an appeal from the order of ARMOUR, J., because of the language of Rule 254, O. J. A., and of the order appealed from.

*Semble*, Rule 254 does not give a judge a right to interfere with the procedure in the action except at the instance of a party.

Wallace Nesbitt and Urquhart, for the appeal.

Millar, contra.

## CORRESPONDENCE.

## DISQUALIFICATION OF POLICE MAGISTRATES.

To the Editor of the LAW JOURNAL:

SIR.—In your last issue your Ottawa Correspondent when writing under the heading of "Disqualification of Police Magistrates and Justices of the Peace" expresses regret that practising solicitors are not prevented by law from being police magistrates and justices of the peace in Ontario. By referring to sec. 5, cap. 71, R. S. O. he will find provided, "except when otherwise specially provided by law, no attorney or solicitor in any Court, whatever, shall be justice of the peace during the time he continues to practise as an attorney or solicitor," and sec. 4, cap. 72 R. S. O. and sec. 9, sub-sec. 2, cap. 4, 41 Vict., Ont. Stat. provide that police magistrates shall be *ex-officio* justices of the peace: so that unless it be held the appointment as police magistrate of a practising solicitor is a special pro-

vision allowing him to continue his practice, notwithstanding he is *ex-officio* a justice of the peace, that police magistrate referred to by your correspondent had better look to himself or your Ottawa correspondent may "go for him."

Yours, etc.,  
B.

Walkerton, Aug. 17th, 1885.

To the Editor of the LAW JOURNAL,

SIR.—In addition to what Mr. R. J. Wicksteed has stated in September number of the LAW JOURNAL, I would call attention to chap. 100, sec. 2, page 1038, of the C. S. C., 6 Vict. c. 3. s. 2. The Revised Statutes of Ontario, cap. 71, sec. 5, re-enact it. The Act respecting police magistrates c. 72 does not interfere with the 6 Vict. c. 3. s. 2. Neither does the Act respecting the qualification and appointment of justices of the peace, c. 71, R. S. O.

Then by s. 4, c. 72, R. S. O. every police magistrate is declared to be *ex-officio* a justice of the peace, for the city town and county etc., 36 Vict. 48, ss. 306 and 307. A police magistrate being by this Act a justice of the peace, can he practice law, and act as a justice of the peace at the same time, in violation of s. 5, c. 71, R. S. O.?

Yours, etc.

A. R. DOUGALL,

Belleville, Aug. 26.

To the Editor of the LAW JOURNAL:

SIR.—In the JOURNAL of 1st September, 1885, there is a letter over the signature of Mr. R. J. Wicksteed referring to disqualifications of police magistrates and justices of the peace, and the writer refers to three statutes of Ontario, naming them as comprising "all the statute law of Ontario respecting the appointment, etc., of the great unpaid and the stipendiary magistrates," and he quotes with approval sec. 20 of cap. 7, Con. Stats. of Manitoba as containing a provision which he suggests Mr. Mowat might follow with advantage.

It is singular that in endeavouring to inform your readers on this matter Mr. Wicksteed should have quite overlooked cap. 71, R. S. O., which is an Act relating to the very matter of which he writes, and in sec. 4 of which there will be found an enacting clause similar to that of the Manitoba statute referred to.

If there be any evil in permitting barristers and solicitors to act as police or stipendiary magistrates the general public seem not to have found it out as they have not complained of it.

The Manitoba section of the Act referred to seems to have been taken from our Revised Statutes.

Yours truly,  
R.