

Chan. Cham.]

NOTES OF CASES.

[Master's Office.]

authorities are opposed to the plaintiff's contention, see *Ex parte Minor*, 11 Ves. 559, and *Twig v. Fifield*, 13 Ves. 518, which have been practically overruled by the cases of *Anson v. Towgood*, 1 Jacobs & Walker, 637, and *Vesey v. Ellwood* 3 Drury & Warren, 77; see also *Fry* on Spec. Perfor. p. 264, and *Brady v. Keenan*, 6 P. R. 262.

Plumb for infants.

R. M. Fleming, for the purchaser, relied on *Ex parte Minor* and *Twig v. Fifield*, above quoted.

THE REFEREE—Held that the interest contracted for passed to the purchaser on the signing of the agreement to purchase; and that the cases of *Ex parte Minor*, &c., were overruled by the later cases.

Blake, V.C.]

[December.

CAMPBELL V. CAMPBELL.

Partition—Commission under G. O. 641—Discretion of Master as to disbursements.

This was a partition suit under G. O. 641. The property sold for \$2400. The plaintiff was entitled to six-eighths of the net proceeds, and two infants to one-eighth each. The total commission amounted to \$199.15. which the Master divided in the following proportions, viz.:—Seven-eighths to the plaintiff, and one-eighth to the guardian.

The Master also fixed the disbursements, which were not revised.

The guardian for the infants appealed from the order of the Master on the following grounds:—1. That one-eighth of the total commission was too little compensation. 2. That the disbursements ought to be revised.

Hoskin, Q.C., for appellant.

Hoyles, for the plaintiff, contended that under G. O. 643 the division of the commission among the solicitors of the different parties was entirely in the discretion of the Master; and that under G. O. 640 and 643 only actual disbursements were allowed, and, consequently, no revision was necessary.

BLAKE, V.C., allowed the appeal on both grounds, holding that a Judge in Chambers

might properly review the distribution of compensation made by a Master; that the question as to what are or are not disbursement is a very difficult one, and these bills should still be referred as ordinary ones to the Master in Ordinary for revision.

MASTER'S OFFICE.

Taxing Officer.]

[October.

JACKSON V. HAMMOND.

Proper parties by bill—Mechanics' Lien Acts—Costs.

The plaintiff Jackson was mortgagee of the lands in question, the defendant Hammond and the other defendants being the holders of liens registered under the Mechanics' Liens Act against the premises.

The bill was an ordinary mortgage bill for sale, but contained the following allegations as to the lien holders: "The defendants, John Anderson and others have lately filed in the Registry Office, in and for the County of Huron, statements of their respective claims of liens to which they claim to be entitled under the Mechanics' Lien Act, by virtue of doing work upon, and furnishing material in the erection of a certain house upon the said lands. The said mortgage to the plaintiff was executed and duly registered in the Registry Office in and for the County of Huron, before the commencement of the work done, or the placing of the materials aforesaid, upon the said lands, in respect whereof the defendants, John Anderson and others claim such liens as aforesaid."

MR. THOM (Taxing Officer) held, on revision of taxation of plaintiff's costs, that the lien holders should not have been made parties by bill, but should have been added as parties in Master's Office, after decree, by notice T.

This ruling was subsequently approved of by BLAKE, V.C., and PROUDFOOT, V.C.