

Cham.]

NOTES OF CASES.

[Cham.]

to allow any sum for costs and disbursements over and above the amounts found in the report.

Boyd, C.]

HUGHES V. REES.

[Oct. 31.]

*Jurisdiction—Officers of Court—Rule 426—Appeals—Practice.*

An application for a commission to examine a witness in New York.

The motion came before the Official Referee, who, at the request of one of the parties, referred the matter to a Judge in Chambers.

*Morphy*, for the application.

*Kingsford*, for defendant, J. Rees.

*J. Hoskin*, Q. C., for infant defendants.

*Donovan*, for defendant, Mrs. Rees.

Boyd, C., declined to entertain the application, holding that matters coming within the jurisdiction of any officer of the Court should be disposed of by him in the usual way, and the parties might then appeal if they saw fit. He would hear any case under Rule 426, on the production of a certificate of the officer in question stating that in his opinion the case was a proper one to be heard before a Judge in Chambers.

Osler, J.]

REGINA V. DUQUETTE.

[Nov. 1.]

*Liquor License Act—Dickinson's Island—Indian land—Sale of liquor.*

Defendant was convicted before the police magistrate of the town of Cornwall for selling liquor without a license on Dickinson's Island, in Lake St. Francis.

*Held*, on an application for a *certiorari*, that that island was part of the county of Glengarry, and therefore within the jurisdiction of the police magistrate.

*Held*, that the Liquor License Act applies to Indian land under lease from the Crown to a private individual.

*Held*, that only the holder of a license can be prosecuted under section 43 of the above Act for selling liquor on prohibited days.

*Aylesworth*, for the application.

Osler, J.]

RE GAUTHREAU'S BAIL.

[Nov. 1.]

*Bail—Estreal—Recitals in recognizance.*

A recognizance of bail put in on behalf of a

prisoner recited that he had been indicted at the Court of General Sessions of the Peace for two separate offences, and the condition was that he should appear at the next sittings of said court and plead to such indictment as might be found against him by the Grand Jury. At the next of said sittings the accused did not appear and no new indictment was found against him.

*Held*, that the recitals sufficiently explained that the intention was that the accused should appear and answer the indictments already found, and that an order estreating the recognizance was properly made.

*Murphy*, for applicant.

Boyd, C.]

RE JAMES.

[Nov. 1.]

*Lunatic—Contract of—Liability.*

One McNally sold a buggy to one James, an infant. James gave a pro. note for the purchase money, endorsed by his father, who was of unsound mind, and unable to understand what he was doing. No consideration passed to the father for his endorsement.

McNally was not aware of the father's condition.

*Held*, on appeal from the Master at Woodstock, affirming his decision, that the father's estate was not liable.

*W. Roaf*, for the appeal.

Boyd, C.]

LEESON V. LEMON.

[Nov. 1.]

*Interpleader issue—Jury notice—Omission to serve—Effect of.*

An order directed the trial of an issue in an interpleader matter.

The plaintiff served the issue, but did not serve with it a jury notice required by sec. 4, cap. 54, R. S. O.

He subsequently served a jury notice with the notice of trial.

The defendant did not appear at the trial, and a verdict was entered for the plaintiff, who afterwards obtained (on notice) from the Official Referee an order for costs.

*Held*, on appeal affirming this order, that the verdict obtained on the trial by jury was not a nullity, but only irregular, and not being moved against promptly should stand.

*Hodgins*, Q. C., for appeal.

*Reeve*, contra.