

Prac. Cases.]

NOTES OF CANADIAN CASES.

[Prac. Cases.]

the facts of the case leave was given to deliver the statement of claim.

Holman, for the motion.

Symons, contra.

Mr. Dalton, Q.C.]

[Oct. 13.]

CANADA PERMANENT LOAN AND SAVINGS
CO. V. FOLEY.

Action for recovery of land—Place of issue of writ.

Held, that a writ for the recovery of land may be issued from the proper office for any county without reference to the locality of the lands, but that the trial must take place in the county where the land lies.

C. J. Leonard for the plaintiffs.

H. J. Scott for the defendants.

Boyd, C.]

[Oct. 17.]

FISKEN V. CHAMBERLAIN ET AL.

Examination before appearance.

An action by a creditor of the defendant Chamberlain to have a conveyance of land which the defendant agreed to purchase, conveyed to the plaintiff in satisfaction of a debt due from defendant to plaintiff, and for an injunction to restrain the owner of the land (defendant Somerville), from conveying the land to Chamberlain or any other person.

The plaintiff, before the defendant Somerville had appeared, obtained an order *ex parte* under Rule 285, O. J. A., for his examination, alleging that he wished to ascertain the name of the person to whom Somerville had conveyed the land in question, in order to prevent alienation to an innocent purchaser.

Caswell now moved to rescind the order for the examination of the defendant Somerville.

W. Read, for plaintiff, contra.

The MASTER IN CHAMBERS dismissed the application.

The defendant appealed on the ground that an order for examination for discovery cannot be made till after defence is filed, and that Rule 285, O. J. A., does not apply to examinations for use at trial.

BOYD, C., dismissed the appeal with costs.

Proudfoot, J.]

[Oct. —.]

JOHNSTON V. JOHNSTON.

Redemption — Dismissal of bill — Reinstating same — Purchaser from defendant — How affected.

A sum of money was directed to be paid by the plaintiff to the defendant, upon which the latter was to convey to the former the lands in question. By mistake the money was paid into Court in a wrong cause. The defendant as upon a default got the bill dismissed. The money was transferred to the proper cause as soon as the mistake was discovered. The defendant, after the Bill was dismissed, sold the land to a purchaser. Subsequently the Master in Chambers set aside the order, dismissing the bill, on the ground that the defendant and his solicitors were aware of the mistake in payment of the money. The purchaser applied to set aside the Master's order, reinstating the bill.

Held, that the order was right.

Shepley, for the motion.

Patterson, J. A.]

[Oct. 19.]

THURLOW V. BECK.

Trial by jury in Chancery Division.

Held, that in an action which previous to the O. J. A. could have been brought in the Court of Chancery only, a defendant has no right as of course to a trial by jury, and that under the R. S. O. cap. 40, sec. 99, the Court of Chancery, upon notice and for good cause, might direct a trial by jury; this power could be exercised only by a judge, and not by the Master in Chambers.

McClive, for motion.

R. Martin, Q.C., and *R. Martin* (Cayuga), contra.

Mr. Dalton, Q.C.]

[Oct. 25.]

BLAIN V. BLAIN.

Irregularity—Motion against—Setting out grounds.

Held, that upon a motion to set aside a proceeding for irregularity, the notice of motion need not specify the irregularity complained of, if it sufficiently appears from the affidavits and papers filed in support of the motion.

H. Cassels, for the motion.

Hodgins, Q.C., contra.