indictment itself, but if the matter set up in this reason is true in point of fact, it would not be sufficient to require us to quash the indictment. The finding of the Grand Jury must stand or fall, not by the designation on the back of it, which is no part of the finding, but by what is contained in the body of the instrument. It is the charge which the Commonwealth prefers against a defendant to which the finding of the Grand Jury refers, and not to the merely clerical endorsements of the District Attorney or the Clerk of the Court on the back of the bill. The only material portion of such endorsements is that made by the Grand Jury of their finding.

Demurrers overruled, and motion to quash dismissed.

George S. Graham, District Attorney, for the Commonwealth.

James H. Heverin and *Furman Sheppard*, Esqs., for the defendant.

NOTES OF CANADIAN CASES.

PUBLISHED IN ADVANCE BY ORDER OF THE LAW SOCIETY.

CHANCERY DIVISION.

The Chancellor.] [March 7, 1883.

RE BATT, WRIGHT V. WHITE.

Administration suit—Executor—Costs.

In an administration suit instituted by an executrix and residuary legatee against her co-executors, on the taking of the accounts, $330.84 more was found in the hands of the defendants than they had admitted in their statement of defence, caused (*a*) by their compensation being fixed by the Master at a less sum than they had claimed; and (*b*) by a mistake in omitting to give credit for an item of receipts which they at once admitted on its being discovered; and (*c*) by their being charged with $80 for witnesses. But it appeared that the litigation had really been caused by the fact that the defendant, having received a sum of money to which the plaintiff's infant daughter was entitled, had paid it to the plaintiff on the agreement that she should procure herself to be appointed guardian to her daughter, and obtain authority to receive the money; and the plaintiff having neglected to procure herself to be appointed guardian, the defendants had claimed to hold a sum out of the residuary share of the plaintiff, as an indemnity against the moneys so paid to her.

Held, notwithstanding that a larger sum had been found against the defendants than they had admitted, they were entitled to be paid their costs out of the estate.

Held, also, that the claim of the defendants to administer was reasonable, and that out of the residue in their hands to which the plaintiff was found entitled, they might properly pay into Court, to the credit of the daughter, a sum equal to that paid to the plaintiff on her daughter's account; and that upon such payment being made, the plaintiff should be at liberty to retain the moneys so paid to her on account of her residuary legacy.

PRACTICE CASES.

Osler. J.] [July 11, 1882.

BANK OF BRITISH NORTH AMERICA V. EDDY.

Examination—Defendant out of jurisdiction—G. O. Chy. 138-144.

An appointment was made *ex parte* by the Master at Ottawa for the examination of the defendant at his office in Ottawa, at 10 o'clock, on 28th June. A copy of the appointment, and of a subpœna, were served on the defendant, who resided in Hull, P. Q., and a copy of the appointment on the defendant's solicitor.

Held, that the proceedings were regular and warranted by G. O. Chy. 138: (*Moffatt* v. *Prentice*); and that consequently relief might be had against the defendant who failed to attend on the examination under G. O. Chy. 144.

Held, also, that such an appointment might be made *ex parte*.

Semble, that this mode of examination, and that provided for by R. S. O. ch. 50., were not interfered with by sec. 52 O. J. A.

W. Fitzgerald, for the plaintiffs.

H. Cassels, for the defendant.

GUNTHER V. COOKE.

Disobedience of court order—Attachment—Discharge—Practice in moving.

A deputy sheriff was arrested under a writ of attachment for default in obeying an order upon