

ONTARIO REPORTS—RECENT ENGLISH PRACTICE CASES.

February 17th.

Present—Messrs. Read, Crickmore, Cameron, Mackelcan, Bethune, Moss, Hoskin, Benson, L. W. Smith, Irving, Maclellan, Britton, Pardee, Hardy, Crooks, Fraser, McCarthy, J. F. Smith, Murray, S. H. Blake.

In the absence of the Treasurer Mr. Read was appointed chairman.

The petition of Thomas Arthur Elliott was granted.

Mr. Hoskin presented a petition relating to the opening of the library at night.

Ordered that it be considered forthwith.

Resolved, that the order adopted in November, 1881, as to the opening of the library at night be continued until 1st July, 1882.

A communication from the Secretary of the Telegraph Co., in reference to the Osgoode Hall office, and a letter from the operator on the same subject, were referred to the Finance Committee with power to act.

Mr. Thomas Percival Galt was appointed reporter of the High Court of Justice Chancery Division.

On the motion of Mr. Mackelcan, seconded by Mr. Moss, it was ordered that Messrs. Maclellan, S. H. Blake, Bethune, and the mover and seconder be a Committee to wait upon the Ontario government, with the view of securing a reduction in the fees charged for short hand notes at the trial and hearing of causes.

The letters of the President of the Osgoode Legal and Literary Society, referring to accommodation for their debates, were read. On the motion of Mr. Moss it was

Ordered that the Legal and Literary Society be granted the use of the great hall for its next public meeting, and that the other matters referred to in the communication of the President of the Society, be referred to the Finance Committee to report to Convocation upon the probable expense.

On the motion of Mr. Murray, seconded by Mr. Mackelcan, it was ordered that the telegraph and telephone operator be allowed forty dollars per month for herself, and four dollars for a messenger boy, from the 1st of February instant until the 1st of July next, and that for the purpose of providing a fund to meet such amounts, the operator be ordered to collect a sum of two cents on every telephone message sent out or received in the office, and that twenty-five per cent on the total of the telegraph business done in this office be collected and applied to the above fund, to meet the payment of the said sums of forty and four dollars a month, and that she do keep a strict account and report state of fund monthly to the Finance Committee at their regular meeting.

Convocation adjourned.

REPORTS

ONTARIO.

(Reported for the LAW JOURNAL.)

COUNTY COURT, MIDDLESEX.

BROWN v. MCKENZIE, SOMMERVILLE,
Garnishee.

*Practice in County Court—Rules 404, 422, 425,
Ont. Jud. Act.*

This was an application by the garnishee upon notice of motion to set aside an attaching order.

A preliminary objection was taken by the judgment creditor, that the application should have been by summons and not by notice.

Reference was made to Rules 404, 422, 425, and 490, Ont. Jud. Act.

DAVIS, CO. J.—By the above Rules, County Court Judges, in addition to the duties properly belonging to their own Courts, are required to discharge the special duties in relation to matters in the High Court under Rule 422. When exercising such delegated authority it is clear from the language of Rule 425 that all applications (not expressed to be *ex parte*) in High Court proceedings must be by summons. In County Court proceedings it is quite different; there the Judge exercises a power, not delegated but inherent. And therefore, in conformity with the practice of the High Court—made applicable by Rule 490 to the several County Courts—the application must be by notice and not by summons. The objection taken cannot be sustained.

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(Collected and prepared by A. H. F. LEFROY, ESQ.)

LAWRIE v. LEES.

Power of Court to vary its orders—Judicature Act.

[Nov. 29; H. L.—L. R. 7 App. 34.]

LORD PENZANCE:—"I cannot doubt that under the original powers of the Court, quite independent of any order that is made under the Judicature Act, every Court has the power to vary its own orders which are drawn up