

Prac.]

NOTES OF CANADIAN CASES—FLOTSAM AND JETSAM.

Rose, J.]

[April 2.]

## HOVEY V. GILBERT.

*Discovery—Examination of defendants before statement of claim—Ex parte order.*

In an action by creditors of defendant R. to set aside conveyances by him to defendant G. as fraudulent, the plaintiffs swore that it was necessary to have an examination of the defendants before delivering the statement of claim, in order that it might be framed with proper particularity as to the fraud, of which they had no personal knowledge, and a local master upon the application of the plaintiffs *ex parte* made an order for such examination.

*Held*, that the order should not, at any rate, have been made *ex parte*, and that the position of a defendant resisting a claim as to which he has no personal knowledge, and of a plaintiff advancing such a claim being vastly different, the order should not in this case have been made at all.

C. J. Holman, for the defendants.

Aylesworth, for the plaintiffs.

Boyd, C.]

[April 6.]

## IN RE HAGUE, TRADERS' BANK V. MURRAY.

*Costs—Executor—Taxation—Moderation.*

Bills of costs for services rendered to an estate after a testator's death down to the date of an order for the administration of the estate were paid by the executor after the order, and pending administration proceedings.

*Held*, that there could be no taxation of the bills as against the executor at the instance of creditors, but that the bills should be moderated. So far as the solicitors were concerned, the payment by the executor was to be regarded as payment of the bills, and to obtain a taxation after payment a case would have to be made against the solicitors.

Practically, the moderation might be so conducted, if warranted, by special circumstances, as to differ but little from taxation.

Lefroy, for the plaintiffs, and the Central Bank of Canada.

Reesor, for the executor.

## FLOTSAM AND JETSAM.

WE are not surprised to see some comments in the Press on the sentences inflicted by Mr. Justice Day. Eighteen months' imprisonment of a clergyman for marrying a person who was under age without due publication of banns, penal servitude for life on a boy for attempting to extort money by threats of false accusation, and eighteen months' imprisonment of the young man called Rowden, or Rawden, for falsely publishing in a newspaper that he was engaged to marry a young lady of high rank, are really a group of sentences which must excite amazement in the ordinary mind. Indeed, when we compare them with the punishments often awarded by judges for offences complicated with violence, they would appear to be eccentric, and passed with a view to invite the interference of the Home Secretary.—*Law Times*.

ASSISTANT LAW CLERK.—On being informed to-day that Mr. F. A. McCord had been appointed assistant law clerk of the House of Commons, Dr. Richard Wicksteed was much surprised and chagrined. Dr. Wicksteed expected the appointment by right of promotion, and had been given to understand by some of the ministers that his claims would be duly considered. For many years Dr. Wicksteed has filled the position of second assistant law clerk, and confidently expected to succeed Mr. Wilson. Some time ago the Minister of Justice stated that a Nova Scotian lawyer, a protégé of his own, was an applicant for the position, but on learning that a thorough knowledge of the French language was necessary, he withdrew from the contest, receiving a solatium in the shape of a job of preparing an index to the revised statutes, for which he is to receive probably \$1,000. Dr. Wicksteed regards the appointment of Mr. McCord over his head as an act of gross injustice which will not do the Government any good, and for which they will be taken to task when Parliament meets. The doctor, like many others, is being made to feel the influence of the Chapleau faction, as the Secretary of State, who is now all powerful in the Government, could not refuse to secure a good position for the son-in-law of his old colleague and treasurer, Judge Wurtele.—*Ottawa Free Press*.