

PRACTICE.—Continued.

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the "Pruden Farm." The defendants swore that this farm was not an asset of the firm, but they were nevertheless ordered to give a full discovery respecting the property. *Macdonald v. McArthur* 56

—*Hearing.—Death of judge.*—After witnesses had been examined and the cause heard, but before judgment, the judge died. The cause was ordered to be set down for argument before the full court. *Cummins v. Congregational Church* 374

—*Non-suit where plaintiff does not appear.*—Where the plaintiff does not appear at the trial a non-suit may properly be entered. The defendant is not, in such case, entitled to a verdict. *Calder v. Dancy*. 25

—*Notice of trial by defendant.*—A defendant may pass and enter the record, and give notice of trial for the Assizes, as well as for any Tuesday. *Calder v. Dancy* 25

—*Orders, service of.—Order not served.—Counsel representing witness.—"Sufficient sureties."*—At law an order must be drawn up and served within a reasonable time otherwise the other party may treat it as abandoned. But the order will not be set aside on the ground of delay unless the other party's position has been affected by it. In equity only *ex parte* orders require service. The common law prevails as to service of orders in election cases. An order was made for the examination of witnesses upon a chamber application. The order was not served, but the opposite attorney attended on, and took part in, the examination. *Held*, That the depositions might be read. *Re Assiniboia Election* 328

—*Revivor.—Dismissal for not reviving.—Costs.*—Where one of several plaintiffs dies, the order is that the survivors do revive within a limited time, and in default the bill is dismissed with costs. In the case of a sole plaintiff the bill is dismissed without costs in case of failure to revive. *McMahon v. Biggs* 84

—*Want of prosecution.—Leave to set down after dismissal at hearing, plaintiff being unready.*—14th August, 1884.—Bill was filed. 30th October, 1884.—Bill amended by adding a large number of parties. January 1886.—Case was or ought to have been ripe for hearing. April, 1886.—Set down for hearing and postponed. June, 1886.—Set down and postponed by plaintiff, defendant D. being a necessary witness and having left the Province although subpoenaed. September, 1886.—Set down and postponed, D. not having returned. January, 1887.—Set down and postponed, D. not having returned and B. the plaintiff's agent, also a necessary witness being absent, although subpoenaed, and having neglected to attend upon an appointment to take his evidence *de bene esse*. 31st March, 1887.—Set down, postponement refused, although D and B. absent; D. meanwhile had been in the province. 4th April, 1887.—Question of costs argued. 7th April, 1887.—B. returned to the city. 19th April, 1887.—Defendants,