

[Prac.]

NOTES OF CANADIAN CASES.

[Prac.]

ing an issue raised by one of the garnishees to be tried before the judge of the County Court of Wellington and a jury at the next sittings of the Court.

After this order was made the county judge assumed to make an order directing the defendant to produce, and the defendant failing to produce, a further order striking out his defence or denial of the issue, and declaring the plaintiff entitled to the moneys in question and to judgment. These orders were entitled "In the County Court of the County of Wellington."

Held, that the county judge had no power to make the order to produce or the subsequent order. The action was not by the order of the Master transferred to the County Court, but was still in the High Court of Justice.

H. J. Scott, Q.C., for defendants.

Black, for the plaintiff.

Boyd, C.]
Div. Ct., Chan. Div.]

[February 9.
[March 21.

RATTE v. BOOTH.

Parties—Joinder of.

The plaintiff, the owner of a water-lot abutting on the Ottawa River who carried on the business of letting boats for hire, brought an action against four saw-mill owners alleging that they, being each the owner of a saw-mill situated higher up on the river than the plaintiff's lot, had each been in the habit of throwing sawdust, slabs, etc., into the river, and that this waste matter floating down the river had lodged upon and in front of the plaintiff's water-lot, and had there formed into a solid mass.

Held, that the four saw-mill owners were properly joined as defendants in one action.

McCarthy, Q.C., *Gormully* and *Clement*, for the defendants.

MacLennan, Q.C., for the plaintiff.

Proudfoot, J.]
Div. Court.]

[January 2.
[March 21.

LAUDER v. CANIER.

Dower—Pleading—Rule 128, O. J. A.

The statement of claim in an action of dower stated that the plaintiff was the widow of L., who died seized of such an estate (in certain lands) as to entitle and give the plaintiff an estate of dower therein.

Held, that the pleadings in action of dower are to be governed by the provisions of the Judicature Act. The right of dower is a legal conclusion from certain facts, and these facts ought to be shortly stated in the pleading.

The statement of claim was held insufficient and was struck out, leave being given to amend.

S. H. Blake, Q.C., and *Grote*, for the plaintiff.

Langton and *Haverson*, for the defendants.

Ferguson J.]

[March 21.

KINCAID v. REED.

Receiver—Plaintiff—Estate under administration.

Watson, for the plaintiff, moved for an order appointing the plaintiff receiver of the share of the defendant (against whom judgment had been recovered in this action) of the estate of defendant's deceased father, in the hands of his administrator, to which defendant is entitled under the Statute of Distributions. He cited *Fuggle v. Bland*, 11 Q. B. D. 711; *Webb v. Stenton*, 11 Q. B. D. 518; *Westhead v. Riley*, 25 Chy. D. 413.

FERGUSON, J., made the order asked for, appointing the plaintiff receiver of the defendant's share to the extent of the judgment and costs, including the costs of this application. The plaintiff not to be required to give security and not to receive any remuneration. The plaintiff to pass his accounts as receiver, and to hold the money subject to further orders.

Rose, J.]

[March 23.

LOCOMOTIVE ENGINE CO. v. COPELAND.

Substitutional service—Local judge—Rule 422, O. J. A.

The action was begun in the High Court of Justice by writ issued out of the local office at Kingston.

Two of the defendants lived in Chicago, Illinois.

The local judge at Kingston made an order for substitutional service on these defendants by serving another person resident in this Province.

Held, that the local judge had no jurisdiction to make the order under the provisions of Rule 422, O. J. A.

Pattison, for the defendant.

D. Saunders, for the plaintiffs.