Then there was a further objection to the rate of interest asked for. It was argued that if the money had been paid into Court it would only have borne interest at 3 per cent. The answer to this is the same as to the objection that no interest should be allowed. A further answer would be that plaintiff might have put the money on special deposit with the consent of the claimants, if the expense of payment into and out of Court was to be avoided. Then no question could have been raised either as to the right to interest or to the rate.

The present lawful rate being 5 per cent., I think defendant Alice R. Cox is entitled to what she asks.

In the circumstances, I do not make any order as to costs, if the plaintiff withdraws his claim for any costs of the contemplated motion for an interpleader order. These may well be set off one against the other.

MAGEE, J. MARCH 13TH, 1905.

WEEKLY COURT.

RE SLATER v. LABEREE.

Division Courts — Jurisdiction — Ascertainment of Amount over $100—Extrinsic Evidence — Promissory Note — Indorser.

Motion by plaintiffs for an order in the nature of a mandamus to the junior Judge of the County Court of Carleton to compel him to try an action in the 1st Division Court in that county. The action was brought against the indorser of a promissory note, to recover the amount of the note, which was more than $100.

W. E. Middleton, for plaintiffs.

A. J. Russell Snow, for defendant.

MAGEE, J., held that extrinsic evidence would have to be given by plaintiffs to enable them to succeed upon their claim, namely, evidence of dishonour and notice, and that therefore the amount sued for (being over $100) was not ascertained by the signature of defendant within the meaning of sec. 72 of the Division Courts Act, as amended by 4 Edw. VII. ch. 12, sec. 1 (O.)

Motion refused with costs.