

Chan. Cham.]

NOTES OF RECENT DECISIONS.

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takes the responsibility of obtaining possession upon himself, and if evicted by a title to which his covenants do not extend he has no right to compensation on that account.

Misdescription in the advertisement, where it amounts to a material representation, is a ground for compensation even after conveyance.

Re LAUDER & MULOCK.

Solicitors—Deceased Solicitor a partner of two firms—Liability of surviving members of one firm to account to surviving members of another firm of which the deceased partner had also been a member.

[STRENG, V. C., on appeal from the REFEREE, 3rd Feb., 1873.]

The Referee has no power to exercise summary jurisdiction over Solicitors; such jurisdiction can only be exercised on an application to the Court.

Semble. When one member of a firm of Solicitors has died, the summary jurisdiction of the Court can no longer be exercised over the survivors, because such an application may necessitate a taking of the partnership accounts and the representatives of the deceased partner would then be necessary parties.

CAMPBELL V. ROYAL CANADIAN BANK.

Appeal bond—Regularity of.

[The REFEREE, 7th Feb., 1873.]

A party opposing the allowance of a surety's bond for security for the costs of an appeal, may read affidavits in opposition to the surety affidavit of justification.

An appeal bond is properly entitled in the cause in the Court below.

HAYES V. SHIER.

Filing—Service of notice of filing—Gen. Ord. 43—Irregularity.

[The REFEREE, 13th Feb., 1873.]

A paper mailed to or delivered to a Deputy Registrar or like officer, elsewhere than at his office, to be filed cannot be treated as a filing; but if the Deputy Registrar or other officer has notwithstanding afterwards filed the paper in his office, previous irregularities in its delivery to him are generally speaking cured.

When a pleading is filed in a Deputy Registrar's office in a County in which the Solicitor for the opposite party does not reside, service of notice of filing must be effected according to Order 43. Service on the Toronto Agent is irregular.

Notice of filing not having been served on the same day that the pleading was filed is not

a ground for moving to take the pleading off the files. The proper course is to move to enlarge the time for taking the next step in the cause.

BUELL V. FISHER.

Immediate sale—Chambers.

[The REFEREE, 14th Feb., 1873.]

An order for an immediate sale after the master has fixed a day for payment, and before it has arrived, will not be made in Chambers.

GRANT V. WINCHESTER.

Security for costs—Cross-examination on affidavits—Uncertain abode.

[The REFEREE, 17th Feb., 1873.]

The rule in force in England (Dan. Pr. 810), that a party who has made an affidavit must submit to cross-examination upon it, if required upon notice to his Solicitor, before taking any further steps in the cause, being founded on an English order has no application in this Province.

On an application for security for costs, a certificate of the state of the cause is only necessary when the application is made before answer filed.

A plaintiff out of the jurisdiction with no certain place of abode, and having no property in this Province, though stating on affidavit that she was only temporarily absent and intended to return, was ordered to give security for costs there being no circumstances from which the Court could reasonably infer that the intention to return would certainly be carried out.

The order was subsequently discharged upon the plaintiff returning to the Province.

NOAD V. NOAD.

Changing venue—Cause of action—Balance of convenience.

[BLAKE, V. C., 14th March 1873.]

The locality of the cause of action is not regarded in Chancery as a ground for changing the venue.

When the venue has once been laid a very large preponderance of convenience must be shewn to change it, and in investigating this regard will be paid to the ability of witnesses to travel, and to the probability of a postponement of the hearing being the result of a change.

Between private individuals it is impossible to say that one class of witnesses will be more injured than another by absence from home. Between a private individual and a public officer this may be considered.