

Chan. Cham.]

NOTES OF CASES.

[Chan. Cham.]

In the same case, on another application, the Master in Ordinary held as set out below :

1. Where the witness could not write and the commissioner certified to that fact, and the interpreter and commissioner signed their names, *Held*, sufficient.

2. The interpreter was not such an agent and correspondent of the complainant on the facts as would justify the suppression of the commission on that ground.

3. (a) The commissioner was an Italian. (b) The instructions are inapplicable to the case of a commissioner unable to speak or understand English. *Held*, not material, as it did not appear that the commissioner was unacquainted with the English language.

4. There did not appear in the depositions a certificate attached that the commissioner took down the evidence required by the instructions. *Held*, immaterial.

5. That, under the instructions, the commission should be executed by one commissioner only, but, contrary thereto, the depositions of the claimant were taken by one commissioner, and those of Redford, a witness, by the other. *Held*, immaterial.

On appeal, PROUDFOOT, V.C., upheld all rulings.

*Ewart* for applicant (defendant H. Darling).

*Moss*, contra.

Referee.]

[June 10.]

IN RE SELBY.

*Life Insurance—Presumption of Death—Practice.*

This was an application by the widow and executrix of the late Mr. Selby to have the proceeds of a policy upon his life paid into court: the assured having disappeared mysteriously in the early part of 1873.

The Court made an order (following orders made by the English Court of Chancery in the same case), directing the money to be paid into court, with leave to the executrix to "apply at Chambers" for payment to her.

On the 3rd of June, 1880, A. Creelman

applied, on behalf of the executrix, for payment, seven years having elapsed since the disappearance of the assured.

W. F. Burton, for the Canada Life Assurance Company, consented, citing *Hoggerman v. Strong*, 4 U. C. Q. B. p. 570.

The REFEREE thought the application should have been made before a Judge in Chambers; but, after consulting with the Vice-Chancellor who made the order, *held* it was not necessary, and granted the order asked for.

Referee.]

[June 28.]

RE CURRY.

WRIGHT V. CURRY.

CURRY V. CURRY.

*Payment by executor into Court—Admission—Practice—Jurisdiction of Referee.*

The Referee in Chambers has no jurisdiction to make an order for payment into court by an executor or administrator of amounts admitted by him to be in his hands.

*Hoyles* for plaintiff.

*Langton* for defendant.

Spragge, C.]

[Nov. 1.]

DUNNARD V. McLEOD.

*Extension of time for appealing.*

Motion before Referee for an order extending the time for appealing from a former order. It appeared by affidavit of the Toronto agents for the defendant's solicitors that a clerk in their office had been instructed at the proper time to set the case down, but that he had forgotten to do so. Order refused.

On application, the CHANCELLOR remarked on the apparent variableness of the recent English practice, and declined to follow *Burgoine v. Taylor*, L. R. 9 Chy. Div. 1, and dismissed the appeal, as the ultimate object of the motion was to secure dismissal of plaintiff's bill.

G. B. Gordon for appellant.

Rae for respondent.