

Chan. Cham.]

NOTES OF CASES.

[Chan. Cham.]

Held, that the \$226 67 was principal, and that the tenant for life was entitled only to the interest on it during her life.

NELSON V. DEFOE.

Proudfoot, V.C.]

[June 5.]

Writ of arrest—What necessary upon application for, in suit for specific performance.

A writ of arrest will not be granted against the purchaser in a suit for specific performance unless it be shown by affidavit that the vendor's lien is insufficient.

Seaton Gordon, for plaintiff.

McKAY v. McKAY.

Proudfoot, V.C.]

[June 5.]

Partition—Creditors—Certain costs of administration allowed.

An order for partition or sale was made under the recent G. O. 640, by the Master at London, for partition or sale of the estate of John McKay, deceased. In proceeding under that Order, the Master advertised for creditors, and among the claims sent in was one of Messrs. M. & M., solicitors, consisting of charges for obtaining letters of administration and for defending an action in the Court of Common Pleas v. the Administratrix. The plaintiff in that action is the present appellant, William McKay, a defendant in this suit, and entitled to a share of the estate. The Master allowed the claim. William McKay appealed, on the ground that the deceased was not, nor is his estate, indebted to M. & M. in any sum whatever, and they are not entitled to prove as creditors in this cause.

Appeal dismissed with costs.

Hoyles for the appellant.

R. Meredith for M. & M., the creditors.

SCOTT V. VOSBURG.

Proudfoot, V.C.]

[June 5.]

Timber on mortgaged property—Sale of, by third party—Proceeds to whom payable.

There were three mortgagees of a property. The first filed a bill for sale, the other two proving their claims in the suit in the Master's office, and the report ap-

pointed a day for redemption. No one redeemed, but a final order for sale was not taken, and because one Vosburg, who had purchased the equity of redemption, was negotiating as to Scott, the third mortgagee, becoming sole mortgagee of the property.

During the negotiations Vosburg cut and sold a large quantity of the timber on the land to G. & W. Scott then filed a bill praying *inter alia* payment by G. & W. of the price of the timber cut and sold them which had not yet been paid over.

On the reference, the Master in ordinary held, under *McLean v. Burton*, 24 Grant, 136, and *Brown v. Sage*, 11 Grant, 239, that G. & W. should pay the value of the timber sold them to the first mortgagee.

On appeal, PROUDFOOT, V.C., upheld the Master's judgment.

Roaf for plaintiff.

Dafoe for first mortgagee.

Eddis for defendant.

MACDONELL V. MCGILLIS.

Blake, V.C.]

[June 8.]

Jurisdiction of Master under G. O. 640—Question of title raised.

The jurisdiction created by G. O. 640 is intended to be exercised in simple cases only, where there is no dispute. Where questions are raised of title or the like a bill must be filed.

Blain, for plaintiff.

Hoskin, Q.C., for infants.

Cattanach, for adult defendants.

Proudfoot, V.C.]

[Oct. 13.]

PHERILL V. FORBES.

Service of bill [by publication—G. O. 100, 436 and 645—Decree—Practice.

Motion for a direction to the Registrar to issue a decree on proceipe.

The bill had been served by publication, the notice being in the form Schedule C to G. O. 100. The time to answer having expired, plaintiff applied for proceipe decree, verifying his claim by affidavit.

Registrar refused to issue decree because the special endorsement provided by Sche-