

Prac. Cases.]

## NOTES OF CANADIAN CASES.

[Prac. Cases.]

There were no trustees of the funds appointed, but the testator appointed executors.

*Held*, that it was their duty to pay the legacies, and, therefore, that the administration should be by a scheme before the Master, and not by the Crown.

*D. A. Creasor*, for the plaintiffs.

*Platt*, for the church.

*Creasor, Q.C.*, for the widow.

*J. R. Galbraith*, for next of kin.

Divisional Court.]

[Nov. 11.]

IN RE HALL.

*Extradition—Ashburton Treaty—Forgery—Uttering.*

The prisoner was a clerk in the office of the Comptroller of the City of Newark, New Jersey, U. S. A., his duty being to make proper entries of moneys received for taxes in the official books of the Comptroller, provided for that purpose. Having received a sum of money for taxes, he entered the correct amount at first, and then erasing the true figures, he inserted a less sum with intent to benefit himself by the abstraction of the difference between the two, and to deceive the Comptroller and the municipality.

*Held*, that the offence was forgery at common law, and the prisoner was remanded for extradition.

Per *PROUDFOOT, J.*—Uttering is not necessary to constitute the crime of forgery, but if it were, the entry in books of the public character of those in question, would be published as soon as made. The offence with which the prisoner was charged, is forgery within 32-33 Vict. cap. 19, ss. 26, 45.

*Fenton*, for the United States.

*Murphy*, for the prisoner.

## PRACTICE CASES.

Mr. Dalton, Q.C.]

[Nov. 3.]

GOWANLOCK V. MANS.

*Jury notice—Exclusive jurisdiction of the Court of Chancery—O.J.A. sect. 45—O.J.A. sect. 4.*

An action in which the principal relief sought is the reformation of a lease is an action in the exclusive jurisdiction of the Court of Chancery, the trial of which must, by sect. 45 of the O. J.

A., be according to the practice of the Court of Chancery at the time when the O. J. A. was passed. A jury notice in this case was held irregular, and struck out with costs.

A "purely money demand" under sect. 4 of the O. J. A. defined.

*Clement*, for the motion.

*H. J. Scott*, contra.

Mr. Dalton, Q.C.]

[Nov. 7.]

TURNER V. KYLE.

Seduction—Examination.

In an action for seduction, an application under Rule 224, O.J.A., for the examination of the plaintiff's daughter as a person for whose immediate benefit the suit was brought, was refused, but an order was granted under Rule 285, as it was necessary that the defendant should be informed before the trial, of the case he would have to meet.

*Fenton*, for the motion.

*A. McDougall*, contra.

Boyd, C.]

[Oct. 10.]

VERMILYEA V. GUTHRIE.

Transfer—Jury—Trial.

*Held*, (1) that where an action is brought in the Chancery Division, and it is a proper case for that Division, the plaintiff will not be allowed to transfer it to another division, either on the ground that he wishes it tried by a jury, or that a transfer would expedite the trial.

(2) That an action for the infringement of a patent should not ordinarily be tried by a jury.

*Clement*, for plaintiff.

*Hoyles*, for defendant.

Mr. Dalton, Q.C.]

[Oct. 12.]

CLARKE V. MCEWAN.

*Statement of claim—Filing and delivery of—Time.*

A statement of claim was filed and delivered more than three months after appearance entered.

*Held*, that the action could not be dismissed as the statement of claim had been filed before notice of motion to dismiss was served, and on