

Prac.] NOTES OF CANADIAN CASES—RULES OF THE SUPREME COURT OF ONTARIO.

in Ontario, for the purpose of winding up insolvent companies. The Master in Chambers, as one of the judicial officers named in the Act, made an order for the winding up of an insolvent company, and referred it to the Master in Ordinary to settle the list of contributories, take all necessary accounts, make all necessary inquiries and reports, and generally to do all necessary acts, matters, and thanks for the winding up of the business of the said company.

*Held*, (1) that the powers vested in the judicial officers named in the Act were conferred upon them as *personæ designata* which they were not authorized to delegate to others or to each other. (2) That the reference was not authorized by the Judicature Act, or rules, or the prior Acts and rules conferring jurisdiction upon the judicial officers in Chambers. (3) That the jurisdiction of the Master in Ordinary under the order of reference would be a delegated jurisdiction, as the substitute or deputy of the Master in Chambers, and not the co-ordinate jurisdiction conferred upon his office by the Act. (4) That the order of reference was not therefore warranted by the Dominion or Provincial Acts, and could not be proceeded on.

A judicial officer cannot delegate the discharge of his judicial functions to another, unless expressly empowered so to do.

All that can be referred to an official referee under s. 47 O. J. A., is a question or questions for inquiry and report, and under s. 48 is an issue or issues for trial. The whole action, facts and law cannot be referred.

*T. P. Galt*, for the petitioner.

### RULES OF THE SUPREME COURT OF ONTARIO.

The following Orders have been passed dated December 15th, 1884:—

545. For the purpose of equalizing the business in the several Divisions of the High Court:

From and after the first day of January, 1885, all writs of summons for the commencement of actions shall be issued by the officers who now issue like writs in the Queen's Bench and Common Pleas Divisions of the said High Court of Justice, and shall be issued alternately in the Queen's Bench, Chancery and Common Pleas Divisions of the said High Court. Writs issued by a deputy clerk of

the Crown and Pleas, or a local registrar need not be signed or sealed by the clerk of the process.

546. All proceedings in actions to final judgment shall be carried on in that office in the same county where the writ of summons was issued, in which by the memorandum subscribed on the writ or by the notice of the writ the appearance is required to be entered, except where by any rule of the Court it may be otherwise provided, or where the Court or a Judge shall otherwise direct.

547. The plaintiff or his solicitor shall, on presenting any writ of summons for sealing, leave with the officer a copy of such writ, and of all the endorsements thereon. Such copy shall be signed by or for the solicitor leaving the same, or by the plaintiff himself if he sues in person. When the writ is issued in the Chancery Division of the High Court by the clerk of the process, such copy shall be forthwith transmitted by him to the clerk of records and writs. Where a writ is issued in the said division by a deputy clerk of the Crown and Pleas, such copy shall be forthwith transmitted by him to the deputy registrar, in whose office the appearance is required to be entered.

Marginal rules 21, 25 and 50 are hereby repealed.

548. Rule 420 is hereby amended by adding thereto the following provisions:—"And in addition thereto shall be and hereby is empowered and required to do all such things, transact all such business, and exercise all such authority and jurisdiction in respect of the same as by virtue of any statute or custom, or by the rules of practice of the said courts, or any of them, respectively were at the time of the passing of the Acts 33 Vic. (O.), cap. 11, 37 Vic. (O.), cap. 7—the Ontario Judicature Act, 1881—and are now done, transacted, or exercised by any Judge of the said Courts sitting at Chambers, save and except in respect to matters excepted by the sub-section (a) of said rule."

549. Rule 543 is hereby repealed and the following substituted therefor:—"In actions in the High Court of Justice no reference to arbitration or other reference or examination for the purpose of discovery, or examination of a judgment debtor on which fees may be payable otherwise than in law stamps, shall be taken before the Judge of the County Court, or local Judge of the High Court, or local Master being also a Judge of the County Court, by whom the order or appointment for such reference or examination has been made.

References in administration matters under General Order 638 of the Court of Chancery, and in partition matters under General Order 648 of the Court of Chancery, and other like references in mortgage actions are excepted from the operation of this rule.