

HIGH COURT OF JUSTICE.

Falconbridge, J.] RE McLEAN v. OSGOODE. [Feb. 15.
Division Courts—Jurisdiction—Notice disputing—Extending time for—Mandamus.

A Division Court judge has no power after the expiry of the time limited by s. 205 of the Division Courts Act, R.S.C. c. 60, for the giving of notice of intention to contest the jurisdiction of the court to grant leave to file a notice disputing it.

Winnett, for the primary creditor. Mulhern, for the primary debtor and garnishee.

Meredith, C.J., McMahon, J.] MEEHAN v. PEARCE. [Feb. 18.

Assessment and taxes—Tenant paying taxes previously assessed against himself as owner—R.S.O. c. 224, s. 26.

The defendant was jointly assessed with his father and brother as owners of certain premises for the year 1897, although he had no interest in them, and subsequently became tenant to the plaintiff a mortgagee in possession under a lease for a term of five years from April 1st, 1898. After he entered into possession he paid the taxes under pressure of a warrant to a bailiff and deducted the amount from his rent. In an action for the balance of the rent by the lessor,

Held, that the taxes were not taxes recoverable from a previous occupant within the meaning of s. 26 of the Assessment Act, R.S.O. c. 224, and that it never was intended that he should be at liberty to deduct from his rent and compel his landlord to pay taxes for which he was himself primarily liable, and even if his assessment was improper, not having availed himself of his right of appeal, the assessment became conclusive as between him and the municipality and recoverable from him, and the fact of his afterwards becoming a tenant would not alter his rights.

W. E. Rancey, for the appeal. W. H. Irving, contra.

Robertson, J.] LAZIER v. ROBERTSON. [March 3.
Marriage settlement—Terms of—Death of husband—"Children"—Death of one in mother's lifetime—Leaving issue—Who entitled on mother's death.

A marriage settlement conveyed certain land to trustees in trust to sell and convey as the husband and wife might appoint, and lay out and invest the money and pay the interest to the wife during life, and in case the husband survived the wife, and there was a child or children then surviving,