

Q. B.]

NOTES OF CASES.

[C. P.]

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IN THE ONTARIO COURTS, PUBLISHED
IN ADVANCE, BY ORDER OF THE
LAW SOCIETY.

QUEEN'S BENCH.

IN BANCO.

DENISON V. SMITH.

Insolvency—Transfer of Stock.

The defendant was, by their Act of incorporation, named as one of the provisional directors of the Toronto, Grey & Bruce Railway Company, and was afterwards elected and acted as a director thereof, having subscribed for \$1000 stock therein, on which he paid partly in money and partly by certain allowances made for his services as such director and otherwise, the sum of \$400. Subsequently to this defendant made an assignment under the Insolvent Act of 1869. Before doing so, however, he had procured the execution by the required majority of his creditors of a deed of composition and discharge, apparently under sec. 94 of the Act in question.

The plaintiff, as a *fi. fa.* creditor of the same company, sued out a writ of *sci. fa.* against the defendant to compel payment to him of the balance due upon the said stock.

The defendant pleaded that he was not a shareholder in the said company, his contention being that the property in the said stock had passed to the assignee. It did not appear whether or not the assignee had accepted or rejected this stock, or had done any act other than accepted the assignment made to him. The defendant had obtained his discharge in the usual way, the unpaid balance on the stock, however, not having been scheduled as a liability of the defendant, and no claim having been proved in respect of it.

Held, that plaintiff was entitled to recover, and that the property in the said stock had not passed to the assignee.

*Rule discharged.**Kennedy*, for the plaintiff.*Ferguson*, Q. C., *contra*.

CAMERON V. GILCHRIST ET AL.

Dower—Action against three defendants—Claim of damages against one—Averment of seisin—Pleading.

To a declaration in dower against three defendants, and suggesting that while one defend-

ant had not, another had appeared, acknowledging the tenancy of the freehold and consenting to the demandant having judgment, and going on to declare against the third defendant claiming damages for detention of dower, the third defendant demurred, on the ground that as the action was against three defendants, the plaintiff could not recover damages for detention of dower against him alone.

Held, affirming the judgment of Gwynne, J., that the declaration was good, and that the objection was not the subject of demurrer, but, if a good objection, only a ground for moving to set aside the declaration for irregularity.

Held, also, that it was not necessary to allege that the demandant's husband had died seised of the land.

*Judgment for demandant.**Bethune*, Q. C., for defendant.*Hector Cameron*, Q. C., *contra*.

COMMON PLEAS.

IN BANCO—SEPTEMBER 5.

FIELDS V. RUTHERFORD.

Surgeon—Malpractice—Evidence—Non-suit.

In an action against a surgeon for malpractice the evidence shewed that, though some of the medical men called for the plaintiff stated that they would have pursued a different treatment, the treatment was such as would have been pursued by medical men of competent skill and of good standing in the profession.

Held, that there was no evidence of malpractice to go to the jury, and a non-suit was entered.

M. C. Cameron, Q. C., for the plaintiff.*Robinson*, Q. C., for the defendant.

PARSONS V. VICTORIA MUTUAL INSURANCE COMPANY.

Insurance—Paid agreement for—Interim Receipts—Warehouse receipts—Insurable interest—Wool—Prior Insurance.

The plaintiff, a hardware merchant, as also a large wool buyer, discounted paper at a bank for his wool purchases on the security of warehouse receipts therefor. At the same time he signed and handed to the defendants' local agent, who was also the bank agent, applications for insurances on the wool, the insurance to be held by the bank as further security. The application stated that the insurance was on the usual terms, and conditions of the company. One of the con-