

C. L. Ch.]

NOTES OF CASES.

[Elec. Case.

Mr. Dalton.] [Sept. 13.]

ANGLO-CANADIAN MORTGAGE CO. V. COTTER.

Ejectment—Disclaimer—Possession—Defendants—Striking out.

An application by defendants in an action of ejectment to have their names struck out on the ground that they were not in possession at or subsequent to the issue of the writ, and disclaim any interest in the land, is regularly made before appearance, although the application would be entertained after appearance, should the justice of the case require it. But as the defendants applied after appearance to have their names struck out, and the Court, from the facts, entertained a doubt as to the good faith of these defendants, the application was dismissed with costs.

Mr. Dalton.] [Sept. 17.]

GANNON V. GIBB.

Arbitration—Reference—Facts in dispute.

Held, on an application to refer to arbitration, that where a material question of fact was in dispute, the case was not a proper one in which to make an order for compulsory reference.

Osler, J.] [Oct. 8.]

KING V. FABRELL.

Prohibition—Division Court—Cheque—Jurisdiction.

The defendant who resided within the limits of the Tenth Division Court of York, drew a cheque in the plaintiff's favour, within the limits of the First Division Court of the same County, upon a bank in the Division in which defendant resided. The cheque being dishonoured, the plaintiff sued upon it in the First Division Court.

Held, that the action was improperly brought in the First Division Court, and that a summons for a prohibition thereto on the ground of want of jurisdiction must be made absolute.

Osler, J.] [Oct. 14.]

MERCHANTS' BANK V. PIERSON.

Examination of party—Contempt.

The defendant having obtained the usual order to examine the manager of a branch

of the plaintiffs' Bank, the order was served upon the manager with a notice to produce books, &c., in accordance with R. S. O., cap. 50, sec. 161. At this examination the manager refused to produce the books, and a summons was obtained to commit him for contempt.

Held, that the application to commit could not be entertained in chambers, but should be made before the Court.

MASTERS' OFFICE.

The Master.] [May 15.]

TRUST AND LOAN COMPANY V. GALLAGHER.

Discharge of mortgage—Effect of before registry.

The plaintiffs, the Trust and Loan Company, advanced \$2,000 on certain land, on condition that three encumbrances against it should be discharged out of the proceeds of their loan and otherwise. The first and third encumbrancers were paid off, and the former executed a statutory discharge of their mortgage, which was never registered. Subsequently the second encumbrancer, who had not been paid, claimed priority over the plaintiffs. They then obtained an assignment of the first mortgage.

Held, that the discharge of mortgage not having been registered, operated only as a receipt, and the amount paid the first encumbrancer being paid by the Trust and Loan Company, and not by the original mortgagor, that the plaintiff was entitled to priority to the extent of the first mortgage.

Marsh, for the plaintiffs.*Snelling*, for the defendant, *Rocque*.

ELECTION CASES.

RE CORNWALL ELECTION PETITION.

Armour, J.] [Aug. 26.]

Election petition—Commission to examine a witness.

Held, that in proceedings under a petition filed in accordance with the provisions of the Dominion Controverted Elections Act, 1874, a commission may be issued to examine a witness who resides in a foreign country.