

North-West Territories.

SOUTHERN ALBERTA JUDICIAL DISTRICT.

ROULEAU, J.,
In Chambers. }

[Feb. 12.

BECKER v. RUTHERFORD.

Dismissing action, s. 153, Civil Justice Ordinance—No cause of action disclosed—Abuse of process of Court—Inherent jurisdiction of the Court.

On the 12th of January, 1897, plaintiff issued writ against the widow and four children of R., deceased, alleging by his statement of claim that R. died at Glasgow on the 8th of January, 1897, intestate; that defendants were the widow and next of kin of deceased; that they resided within the jurisdiction of the Court; that R. was indebted to the plaintiff in the sum of \$495.00; that deceased left personal property within the jurisdiction of the Court, sufficient to satisfy plaintiff's claim; that defendants were the persons entitled thereto; that no administrator had been appointed, and asking for judgment against defendants for the amount of the plaintiff's claim.

On summons by defendants after appearance, order made declaring that no cause of action was disclosed by the pleadings, that same was vexatious and an abuse of the process of the Court, and under above section of the Ordinance and under the inherent jurisdiction of the Court, action dismissed with costs.

Sifton, for plaintiff.

Muir, Q.C., for defendants.

United States

NOTES OF RECENT DECISIONS.

For the mistakes of a physician or surgeon employed by the master to treat a servant, it is held in *Quinn v. Kansas City, M. & B. R. Co.*, 94 Tenn. 714, 28 L.R.A. 552, that the master is not liable if he has not been negligent in selecting the physician.

It is held by the Supreme Court of Michigan in *Fritz v. The Detroit Citizens' St. Ry. Co.*, reported in 2 Detroit Legal News, 19, that a driver of a vehicle in a public street traversed by a street railway is bound to take notice of the conditions governing the operation of street cars. It is negligent for him to suddenly turn in front of an approaching car, whether the car be coming from the direction in which he is driving or from the rear. Before turning upon the track of a street railway, the driver of a vehicle should look in both directions for an approaching car. Where a collision occurs by the turning so suddenly that the motorman of a car travelling in the same direction is not able to stop his car nor tell in advance that he was about to attempt the crossing, he is guilty of contributory negligence and cannot recover.