

MOSS, J.A.]

[June 14.

VANSICKLE v. AXON.

*Discovery—Production of documents—Affidavit—Objection to produce—Specification of document.*

Where, in an affidavit of documents made in compliance with the usual order for production, only one document is mentioned, and the possession or control of other documents is negatived, the statement "I object to produce the said document," sufficiently specifies the document mentioned in the affidavit which the defendant objects to produce, though no information is given as to its date, nature, or contents.

*James Dickson*, for the plaintiff.

*Douglas Armour*, for the defendant, Frederick Axon.

FALCONBRIDGE, J.]

[June 14.

HAACKE v. WARD.

*Service of papers—Posting up copies—Rule 1330—Judgment—Irregularity.*

Where service of a statement of claim and notice of motion for judgment was effected, under Rule 1330, by posting up copies in the office in which the proceedings were conducted,

*Held*, that the posting up of one copy only for two defendants was not to be deemed service on either; and a judgment founded thereon was set aside as irregular.

*G. C. Campbell*, for the plaintiff.

*J. W. McCullough*, for the defendant Ward.

*C. J. Holman*, for the defendant Heise.

FALCONBRIDGE, J.]

[June 14.

LYON v. RYERSON.

*Mortgage—Notice of sale—Abandonment—Costs—Action on covenant—Motion for summary judgment.*

After the issue of the writ of summons and service of a notice of motion for summary judgment in an action upon the covenant for payment contained in a mortgage deed, the plaintiff, without the leave required by R.S.O., c. 102, s. 30, served notice of exercising the power of sale contained in such deed. Before the hearing of the motion, the plaintiff gave notice of abandonment of his notice of sale and of all costs in respect thereof.

*Held*, that the effect of the notice of sale was to give the defendant time within which to pay off what was claimed, and, unless the defendant was willing to release the plaintiff, he was bound by the notice, and the motion for judgment could not be entertained; but the object of R.S.O., c. 102, s. 30, would be fully attained by directing that the motion should stand over until after the expiration of the thirty days mentioned in the notice.

*T. W. Howard*, for the plaintiff.

*Horrell, Q.C.*, for the defendant.