

Chan. Ch.]

NOTES OF CASES.

(Chan. Ch.)

the plaintiff gave notice of appeal, and applied for an order to retain the money in Court, pending the appeal.

Held, on appeal from the referee reversing his order, that the money had not been paid into Court for any specific purpose, but to abide the further order of the Court, that it represented the subject matter in the suits, that it was in the discretion of the Court to act in the premises, and that the moneys should remain in Court pending the appeal unless security were given instead.

D. E. Thompson, for the appeal.

Hoyles, contra.

Ferguson, V.C.]

[Sept.

PETRIE V. GUELPH LUMBER CO.

Undertaking to speed cause—Dismissal of bill—Relief from undertaking.

The plaintiff undertook upon a motion to dismiss his bill, to bring the cause down at the then next sittings at Guelph. From some correspondence it appeared that if the plaintiff had set his cause down for the then next Guelph sittings, a postponement would have been asked for on the ground of the attendance at the House of Commons of a member who was a defendant. The plaintiff offered to bring the cause down to the then next sittings at Toronto, to which a conditional consent was given; but the cause was not set down. The Referee dismissed the bill.

Held, on appeal, reversing the Referee's decision, that the plaintiff was relieved from his undertaking to bring the cause down to Guelph under the circumstances, and that he was under no obligation to bring the cause down to Toronto, and as no intentional delay was shown on the part of the plaintiff, the bill was restored.

McCarthy, Q.C., for the appeal.

S. H. Blake, Q.C., *W. Cassels*, *Bethune*, Q.C. and *Hoyles*, for the several defendants.

Mr. Stephens.]

[Sept. 12.

ADAMSON V. ADAMSON.

Appeal bond—Registration of conveyance of land owned by surety.

This was a motion to disallow a bond given on an appeal.

In the course of the examination of one of the bondsmen, he stated that he had had for some years conveyances to himself of certain lands, but had not registered them. It appeared that the lands were of sufficient value.

Langton, for the motion, objected to the sufficiency of the surety, unless the alleged conveyances were registered, and cited *Curry v. Curry*, before the late C. J. of Ontario, not reported, in which a surety was directed to make his title to certain land under similar circumstances a registered one.

Barwick, contra.

MR. STEPHENS directed the conveyances to be registered.

Mr. Stephens.]

[Sept. 12.

WETHERHEAD V. WEATHERHEAD.

Service—Infant out of jurisdiction, Rule 36 O. J. A.

This was a partition suit.

W. Roaf applied for an order allowing substitutional service of the bill, on the official guardian of an infant defendant. The infant being resident without the jurisdiction of the Court, and no provision being made for such a case under Rule 36 O. J. A.,

MR. STEPHENS allowed the order to go on the ground that the share of the infant in the lands in question amounted to only \$40, and substitutional services would be inexpensive.

Boyd C.]

[Sept 13.

McFARLANE V. McFARLANE.

Examination after answer and disclaimer when fraud charged in bill.

This was a bill to set aside a conveyance as obtained by fraud.

One defendant, the wife of another defendant, filed an answer and disclaimer denying all charges of fraud made against her in the bill, and disclaiming all interest in the subject matter of the suit and asking her costs.

On examination after answer she declined to answer any questions relating to the alleged fraud.