

Prac. Cases.]

NOTES OF CANADIAN CASES.

[Prac. Cases.]

that in making up an account by a mortgagee in possession unexpected difficulties present themselves, owing to delays by the plaintiff and the death of parties who could give information as to changes, which would probably swell the account of the mortgagee, are not such special circumstances as will induce a judge to grant leave to appeal.

The distinction between applications for indulgence prior to decree and subsequent to decree, commented on.

S. H. Blake, Q.C., for the defendant Brown.
Hoyles, for the plaintiff.

Cameron, J.]

[June 6.]

ARKELL V. GEIGER.

Interpleader—Sheriff's costs—Scale.

Where execution issued out of the High Court of Justice, and the sheriff obtained an interpleader order under which an issue between the parties was directed to be tried in the County Court under 44 Vict. c. 70.

Held, that the sheriff was entitled to his costs under the interpleader order, to be taxed on the scale of the Court out of which the process on which he seized the goods issued.

Semble, that the parties to the issue should also have their costs prior to the order directing the issue on the Superior Court scale. *Beatty v. Bryce*, 90 P. R. 320, explained.

Clement, for the sheriff.

J. B. Clarke, for the execution creditors.

Aylesworth, for the claimant.

Proudfoot, J.]

[June 6.]

RE SOLICITOR.

Solicitor—Restoration to roll—Evidence.

Upon a petition by a solicitor who was struck off the roll on the 1st September, 1874, for not having paid over money collected by him for a client, to be restored to the roll, and to have the order striking him off rescinded, it was shown that the solicitor had now paid the money, and the consent of the creditor to the prayer of the petition was also produced.

Held, that corroborative evidence of the conduct of the solicitor during the period that his name was removed from the roll, should be furnished, and that notice of the application should be given to the Law Society.

An affidavit testifying to the propriety of the solicitor's conduct having been subsequently furnished, it was ordered that the solicitor be restored to the roll if the Law Society offer no opposition.

An order to rescind the order striking the petitioner off the roll, was refused.

Aylesworth, for the solicitor.

Boyd, C.]

[June 6.]

SULLIVAN V. HARTY.

Administration order—What matters may be investigated in taking the accounts under.

It is not necessary to file a bill or bring an action for administration except in cases where matters of misconduct are charged which would entitle a plaintiff to apply, at the outset of the case, for an injunction or a receiver; in all other cases in which this course has been taken, the extra costs occasioned thereby must be borne by the plaintiff.

Britton, Q.C., for the plaintiff.

Burton, J.A.]

[June 6.]

LUMSDEN V. DAVIS.

Practice—Security on appeal—Insolvency of surety.

Where, in consequence of the insolvency of one of the sureties in a bond given by the appellant, on appealing to the Court of Appeal, it is considered advisable to obtain further or better security, the application for that purpose should be to the Court appealed from.

Boyd, C.]

[June 6.]

REN V. ANTHONY.

Infant defendants out of the jurisdiction—Practice in serving process.

An application for a direction to one of the taxing officers to tax plaintiff's costs of effecting service of process upon the infant defendants resident out of the jurisdiction.

BOYD, C. — The O. J. Act and rules do not in terms provide for the practice of serving of process upon an infant resident out of the jurisdiction. Rules 36 and 37 and 70 all apply to service within the jurisdiction. This appears, therefore, to be a case in which, under sect. 12 of the Judicature Act and the head note