above all other nations, perhaps, certainly above all but England, is interested to maintain the right of asylum inviolate; and we are sure that it will not fail of its high duty in this regard.—*American Law Review.*

CANADA REPORTS.

ONTARIO.

COMMON LAW CHAMBERS.

(Reported for the *Law Journal* by G. Gibson, M.A. Student-at-Law.)

Goldie v. Date's Patent Steel Company.

Notice of trial pending appeal to higher Court.

A notice of trial given pending an appeal to a higher Court will be set aside for irregularity.

[Sept. 18, 1876.—Mr. Dalton.]

In this case the defendant had obtained a rule in Hilary Term, 1876, setting aside the verdict for the plaintiff, and granting a new trial without costs. The plaintiff gave notice of appeal from this decision, and proceeded to file the usual bond, which was allowed. No further proceedings were taken in prosecution of the appeal, and some months after the allowance of the bond the plaintiff served notice of trial for the Autumn Assizes. A summons having been taken out, to set aside the notice of trial,

J. B. Read showed cause.

H. J. Scott supported the summons.

Mr. Dalton.—The notice of trial is invalid, having been served during the pendency of an appeal to a higher Court, and must be set aside with costs.

Order accordingly.

Re Attorneys.

Refusal to make affidavit—Requisites of affidavit under C. L. P. Act, sec. 188.

[Sept. 19, 1876.—Mr. Dalton.]

Summons to examine a person refusing to make affidavit when required to do so by a party to this matter.

Osler showed cause and contended that under sec. 188 of the C. L. P. Act, the affidavit on which the application was made should show the nature of the facts with reference to which the person was asked to make an affidavit.

Donovan contra.

Mr. Dalton over-ruled the objection on the ground that all that is necessary is the statement that the person sought to be examined can give valuable information as to the matters in question, and has refused to make an affidavit when required to do so.

Order accordingly.

Davis v. Code.

Examination under Administration of Justice Act.—Defence for time.

[Sept. 22, 1876.—Mr. Dalton.]

Summons for leave to strike out the defendant's pleas and sign judgment.

The action was on a promissory note, and the defendant, on being examined under the Administration of Justice Act, acknowledged that his defence was merely for time, and that he had "no real defence" to the action. The defendant had a plea to the effect that the note was not properly stamped, and apart from the general admission above referred to, there was nothing in the examination to show the falsity of this plea.

Mr. Culver *(Richards & Smith)* showed cause.

Osler contra.

Mr. Dalton.—If the defendant had merely said that his defence was for time, the plea might have stood, as such a statement said nothing as to the truth or falsity of the defence, but as the strong negative expression that he had "no real defence" had been used by the defendant all his pleas must be considered as proved to be false on his own admission, and must therefore be struck out.

Order accordingly.

Harris v. Peck.

Ejectment—Service of issue book—Rule of Hilary Term 1876—*Jury notice in ejectment.*

Held, that the rule of Hilary Term, 1876, abolishing the use of issue books, applies to actions of ejectment, and that it was within the power of the Court to make such rule.

Semble, that the notice for jury which by 35 Vict. cap. 19, sec. 1, must be annexed to the issue book in ejectment, may now be served at any time when the issue book could have been served under the old practice.

[Oct. 6, 1876—Mr. Dalton.]

Ejectment.—A summons was obtained to set aside the notice of trial in this case, on the ground that no issue book had been served by the plaintiff.

Osler shewed cause.