

Prac. Cases.]

NOTES OF CANADIAN CASES.

[Prac. Cases.]

the account where a reference to the Master as to subsequent incumbrances is also sought.

BOYD, C., *held*, that the usual course must be followed, and that the defendant should be ordered to pay the amount found due forthwith after the Master shall have made his report.

Distinguished. McCallum v. Proudfoot, J. *McCallum v. Proudfoot, J.* [June 25.]
PR. 179.

EXCHANGE BANK V. NEWELL ET AL.

Taxation—Solicitor and client—Appeal—Rule 407 O. J. A., G. O. Chy. 642.

An appeal by two of the defendants from the certificate of taxation of the Local Master at St. Thomas, upon a taxation, at their instance, of their solicitor's bill of costs.

Held, that two clear days notice of appeal, under Rule 407 O. J. A., is insufficient, as G. O. Chy. 642 requiring seven days notice to be given, applies to these cases. Appeal dismissed with costs.

Caswell, for the appeal.

Hoyles, contra.

Cameron, J.]

[June 26.]

CHRISTIE V. CONWAY.

Interpleader—Scale of costs—Appeal from Master in Chambers to a Judge in Chambers.

An interpleader matter. Execution issued for a very much larger amount than \$400, but the subject of the issue was under \$400 in value. The trial of the issue was directed to take place in the Superior Court.

Upon a motion to finally dispose of the costs of the issue the Master in Chambers awarded the claimant the costs, and ordered them to be upon the County Court scale.

Aylesworth, for the claimant, appealed from this order.

A. Cassels, for the execution creditor, contra, contended (1) that there is no appeal from the Master in Chambers upon the question of costs in an interpleader proceeding, except to the Divisional Court. (2) That the Master's order was right and in accordance with the decision of the Chancellor in *Beaty v. Bryce*, 9 P. R. 323, and, at all events that no appeal would lie without the leave of the Master.

Held, that there is an appeal to a judge in Chambers from the decision of the Master in

interpleader. The rule which prevents the decision of the Master, in the exercise of his discretion, being reviewed, cannot be invoked in a case like this where the right of appeal is unrestricted.

Held, that the costs should be on the Superior Court scale.

Beaty v. Bryce, 9 P. R. 320, dissented from.

Proudfoot, J.]

[June 27.]

KEMPT V. MACAULAY.

Mortgage.

This case was re-argued on appeal before PROUDFOOT, J., who upheld the Master's order.

Cameron, J.]

[July 3.]

FLETCHER V. NOBLE.

Bond for security for costs—One surety—Sufficiency.

An action upon promissory notes brought in the C. P. Div. of the H. C. J.

An order was made by the Master in Chambers that the plaintiff do, within four weeks from the service of the order, give security on his behalf in the penal sum of \$400 to answer the defendant's costs of action.

The Registrar of the C. P. D. disallowed the bond filed by the plaintiff in compliance with this order, on the ground that there was only one obligor therein. Upon appeal, on the 29th June, 1883 :

CAMERON, J.—I think the practice of the Court clearly requires that such security should be by bond or instrument under seal, and that it must be to the satisfaction of the Master, but, though usual, the practice is not universal, that there must be two sureties and I see no valid reason why two sureties for so small a sum as \$400 should be required. By Rule 429 O. J. A. the matter would seem to be one of discretion in the Court or Judge. . . I am of opinion therefore that the Registrar was quite justified in his refusal to allow the bond, but as he did so solely on the ground that there was only one surety, and not by reason of the security in other respects being insufficient, I think the matter must be sent back to him to determine whether the security is sufficient without reference to the practice requiring two sureties to join in the