

C. L. Cham.]

NOTES OF CASES.

[Ontario.

the defendant worked at Aylmer, in the Province of Quebec, whilst his wife and family lived at Rochesterville, across the Ottawa, in the Province of Ontario, where his wife kept a store, and where the defendant often came to see her. *Held*, that his residence was with his family.

*J. B. Read* for plaintiff.

*A. Cassels* for defendant.

REG. EX REL. HARRIS V. BRADBURN.

(March 28, 1876.)

*Municipal Election—Leaving names of candidates of ballot papers—Acquiescence.*

HARRISON, C.J. The name of a candidate who has been nominated, but who withdraws (with the consent of the electors) before the close of the nomination, need not be placed upon the ballot paper.

The omission of the name of a candidate from the ballot paper is not *per se* a ground for setting aside an election, if it is not shown that it has in some manner affected the result of the election.

The case of *Reg. ex rel. Regis v. Cusac ante*, followed, as to the result of acquiescence by a relator in irregular proceedings.

*D. B. Read*, Q.C., for relator.

*Wells*, contra.

PAGE V. FOSTER.

(March 31, 1876.)

*Non pros.—No proceedings for a year.*

*Held* (by MR. DALTON, whose decision was afterwards upheld on appeal by HARRISON, C.J., that section 81 of C.L.P. Act prohibits the defendant from signing judgment of *non-pros.* after the expiration of a year from the return day of the writ, and that he, as well as the plaintiff, is prohibited from taking any step after that time.

*Osler* for plaintiff.

*Robinson & O'Brien* for defendant.

DOOLAN V. MARTIN.

(April 7, 1876.)

*Staying proceedings until costs of former action paid—Trespass—Malicious prosecution.*

The plaintiff, in a previous action, sued in trespass, but was nonsuited, on the ground that her remedy, if any, was by action for malicious prosecution. She accordingly sued in the latter form of action. The defendant then applied to stay all proceedings until the costs in the first

action should be paid, on the ground that this suit was brought for the same cause of action.

HARRISON, C.J., (on appeal from Mr. Dalton, and reversing his decision) *held* that this was not so, and the application was refused.

*Semble*, that the jurisdiction to stay proceedings in cases of this kind should be sparingly used.

*F. Osler* for plaintiff.

*W. R. Mulock* for defendant.

FLOTSAM AND JETSAM.

“The king, being God's lieutenant, cannot do a wrong.” 11 Rep. 72 a.

ENGLISH SOLICITORS.—The duty on solicitors' certificates—the name of “attorney” no longer being used in legal circles—amounted in the year ended 31st of March last to £94,433. The number practising in the United Kingdom was 14,409.

SCOTCH LAW COURTS.—Most people know the irreverent and slovenly way in which the oath is administered to English witnesses. The witness hurries into the box, and while judge and jury and the spectators are chatting and rustling in a pause of the business, the clerk of the court hands him a small Bible, which he holds in his right hand. The officer then recites his mumbled formula—“The evidence you shall give to the court and jury, touching the matter in question, shall be the truth, the whole truth, and nothing but the truth. So help you, God!” The witness, without uttering a word, ducks his head and puts his lips to the Bible cover—unless he is cunning and ignorant enough to evade the ceremony by kissing his thumb. Now, in Scotch courts the procedure is far more dignified and impressive. When the witness appears, the Judge himself rises from his seat, and raising high his right hand, looks fixedly on the offerer of the evidence, who, as instructed, also raises high his right arm, and looks the Judge in the face. The Judge then, amid general silence, calls the witness to say aloud after him—“I swear by Almighty God to speak the truth, the whole truth, and nothing but the truth!” No paltry symbol is added to the simple solemnity of this declaration, which appears likely to be far more binding on the conscience of him who makes it before the Judge and in the silence of the crowded court.—*Leisure Hour.*