

Dec. 1, 1882.]

NOTES OF CANADIAN CASES—LAW STUDENTS DEPARTMENT.

Prac. Cases.]

**LAW STUDENTS' DEPARTMENT.****LAW STUDENTS' LIBRARY.***To the Editor of the LAW JOURNAL.*

DEAR SIR,—The Law Society have provided for the use of students a library consisting of the text books used on the course for the law examinations.

This library consists of about twenty-five text books, and these mostly old editions now of very little use. There are understood to be two copies of each work, one of which must always remain for use in the Hall.

Now, Mr. Editor, there are studying in the City of Toronto alone some three hundred law students, and most of them are endeavouring to get a training in Toronto on account of the additional advantages in the way of practice, and get along as best they can on little or no salary, consequently they cannot, as a general rule, afford to purchase the text books.

Each student pays into this society sums amounting to about forty-three dollars a year during his five years' course, and the Law Society with their large surplus, swollen every three months with the fees of law students, should, we think, have a little more consideration for them, and furnish a library of text books that would be something nearly adequate for their use—say ten or fifteen copies of each work used on the course.

When one copy of a work is being watched for by sixty or seventy students it seldom finds its way back to the Hall if taken out a month or two previous to an examination, until that examination is over, and it is then secured by another student only to be retained by him until he is through with it. Of course it is impossible for the librarian to prevent students taking these books, as he cannot remain and watch the miserable collection in this text book library all the time; but if there were a number of copies of each work supplied the student would then feel satisfied that when he wanted to read a work he would be able to get it, this evil would be done away with.

We do not forget that the society has been good enough to furnish us with a course of lectures, and for this we are truly thankful, still we think this will prove a far less expensive boon and one that would be fully appreciated.

count from the granting of leave to appeal, as no delay took place in applying for such leave.

*J. H. McDonald*, for appellant.

*Hoyles*, contra.

Cameron, J.]

[Nov. 27.]

CHAPMAN V. SMITH.

*Notice of trial—Dismissal of action—Rule 255.*

The pleadings in the action had been closed for more than six weeks when the plaintiff entered the case, and gave due notice of trial under Rule 255. By consent, at the assizes, the case was struck off the list by the judge without costs to either party.

*Held*, by the Master in Chambers on a motion by the defendant, to dismiss, for want of prosecution, under Rule 255, for not setting the cause down for a subsequent assize, that Rule 255 contained, in fact, two directions, 1st, that either party might give notice of trial; 2nd, that either might give such notice for the first assize held ten days after issue joined, and that, as a consequence, from the first direction of the rule, the defendant might move to dismiss for any default of the plaintiff in not setting down and giving notice for any future assize.

*Order accordingly.*

*Held*, on appeal, that where a case is struck off the list by the Court in the manner in question, as the old practice of striking out no longer prevails, it is equivalent to a dismissal of the action, and neither party can move in it without the special leave of the Court. That after notice of trial has been given and cause entered, it is not competent to dismiss an action except under Rule 269. That by the giving of notice of trial and the entry of the cause for trial, an action is completely removed from the operation of Rule 255.

*Seem*, the proper course in the present case was to have applied for a postponement to the next or a future sitting of the Court, or, under Rule 171, producing a written consent to the proper officer of the Court.

*Appeal allowed without costs.**Holman*, for the appeal.*Watson*, contra.