

Prac.]

NOTES OF CANADIAN CASES—FLOTSAM AND JETSAM.

Boyd, C.]

[Nov. 19.]

LAVERY V. WOLFE.

Production of papers on examination for discovery.

A motion to commit the plaintiff for not producing certain papers on his examination before a special examiner under the Chancery General Orders still in force, 138, 140. The plaintiff was served with a subpoena *ad test.* with a special clause therein requiring him to produce certain letters, books and documents at the time and place appointed for examination, but failed to produce the required papers.

Held, that the endeavor to combine the two methods of discovery (examination of parties and production of documents) by means of an examination and a subpoena *duces tecum* is not to be encouraged by treating non-production as a contempt. The proper course was to have had the examiner direct what should be produced and to have adjourned the examination for the purpose of procuring the documents.

O'Heir, for the motion.

Clement, contra.

Osler, J. A.]

[Nov.]

QUEEN V. WALKER.

Holman, moved on behalf of David Walker for leave to put in recognizance *nunc pro tunc*. It appeared that no recognizance had been entered into before the return of the writ of *certiorari* by the Clerk of the Peace. An order *nisi* to quash the conviction had been granted and issued but not served. The affidavit in support of the motion showed that before writ of *certiorari* had been applied for the convicting magistrates had refused to take the recognizance of the defendant.

OSLER, J.A., referred to the case of *King v. The Inhabitants of Abergale*, 5 A. & E., page 795, and ordered "that the return of the writ of *certiorari* be enlarged, and the writ sent back to the Clerk of the Peace in order that it might be duly returned after the defendant shall have entered into a proper recognizance with sufficient sureties pursuant to the Statute in that case made and provided."

FLOTSAM AND JETSAM.

It is announced that the Queen has been pleased to confer upon the Right Honorable Sir John Macdonald the distinction of Knight Grand Cross of the Order of the Bath, in recognition of his eminent services to Canada and the empire. The *Gazette* (Montreal) says: "The occasion selected for the bestowal of this mark of great honor is most fitting, the fortieth anniversary of Sir John's entrance into public life. The dignity is an exalted one. The Order of the Bath is one of the most ancient and honorable in heraldry, and though it fell into disuse for a time in the seventeenth century, it was revived by George I. in 1725, and is now the second order in rank in England, the first being the Garter. By the statutes then framed for the government of the order, it was declared that besides the sovereign, a prince of the blood, and a great master, there should be thirty-five knights. The order was exclusively a military one down to 1847, when it was placed on its present footing by the admission of civil knights, commanders and companions. The order is divided into three classes, and it is to the first of these, that of the grand cross, that Sir John Macdonald has been raised, he having previously been decorated with the second class, that of Knight Commander. The civil list of the first class is limited to twenty-five, and Sir John's promotion leaves still one vacancy in the number. Among those upon whom the honor has been conferred in recent years are such distinguished men as Lord Dufferin, Sir Edward Thornton, Sir Bartle Frere, the Earl of Lytton, Sir Stafford Northcote, Lord John Manners, Sir Robert Peel, the Marquis of Hertford, Earl Sydney, and Viscount Halifax.