

Prac.]

NOTES OF CANADIAN CASES.

[Prac

Rose, J.] [March 4.]

BUDWORTH V. BELL.

Security for costs—Penal action—Time for application for—What costs to be secured—C. L. P. Act sec. 71—Rule 429 O. J. A.

In a penal action brought by a common informer, the Master in Chambers made an order in general terms for security for costs under the 71st section of the C. L. P. Act.

The order was made after the statement of defence had been delivered, and after the parties had been examined.

Held, on appeal, following *Sydney v. Bird*, 23 Ch. D. 358, that the order was properly made at that late stage of the cause, and was authorized by Rule 429 O. J. A., but that the order should be amended so as to direct that security should be given "for the costs to be incurred in such suit or action," following the words of the 71st sec. of the C. L. P. A.

H. T. Beck, for the plaintiff.

McMichael, Hoskin and Ogdan, for the defendant.

Rose, J.] [February 24.
[March 13.]

RYAN V. CANADA SOUTHERN RY. CO.

Local Judge of High Court—Jurisdiction—Rescinding orders.

The plaintiff's solicitors lived at Sandwich and the defendant's solicitors at Toronto.

The local judge at Sandwich in November, 1884, made an *ex parte* order for leave to the plaintiff to amend the writ of summons before service, and subsequently set aside his own order on the defendant's application on notice to the plaintiff, and after argument by Counsel on behalf of both parties.

The plaintiff appealed from the second order to a Judge in Chambers at Toronto.

Held, that the local judge had no power to make the rescinding order under Rule 422 O. J. A.

Subsequently the defendants made a substantive motion before the same Judge in Chambers at Toronto to set aside the original order of the local judge.

Held, that save as excepted, a local judge of the High Court in proceedings in the High Court having the same power in Chambers as a judge of the High Court in Chambers as to the matters referred to in the Judicature

Rules, he is a judge of co-ordinate jurisdiction with a judge of the High Court in Chambers. A judge of the High Court has, therefore, no power to review the decision of a local judge save by way of appeal in the manner provided by the Judicature Rules. This motion cannot be treated as an appeal as it is too late under Rule 427 O. J. A.

Aylesworth, for the plaintiff.

H. Symons, for defendants.

Rose, J.] [March 13.]

GORING V. THE LONDON MUTUAL FIRE INSURANCE COMPANY.

Examination—Discovery—Officers of Corporation.

In an action upon a fire insurance policy against a company,

Held, that the local territorial agent of the company who received the application and the premium and issued the *interim* receipt, and his successor who had charge of the agency when the fire occurred were properly examinable for discovery, before the trial, as officers of the company under the C. L. P. Act.

Quere, whether the examination should not be limited to the purposes of discovery, and whether or not it should be used as evidence against the company.

Clement, for the plaintiff.

Aylesworth, for the defendants.

Rose, J.] [March 13.]

HUGHSON & CO. V. GORDON.

Judgment—Rule 80 O. J. A.

In an action on a promissory note made by defendant in favour of one McKenzie, and by him endorsed to the plaintiff, the Master in Chambers made an order for judgment under Rule 80 O. J. A.

The usual affidavit was made by the plaintiffs' manager. The defendant filed an affidavit in answer showing that he was an accommodation maker and stating his information and belief that the plaintiffs were perfectly aware of the fact. He also stated on information and belief that the plaintiffs held the note as collateral security, and that they never gave any value for it, and further that since the making of the note McKenzie had become insolvent and had made an assignment for the benefit of his creditors, and that there was