

[Prac.]

NOTES OF CANADIAN CASES.

[Prac]

Held (affirming the judgment of FERGUSON, J.), under the provisions of the Assessment Act, R. S. O. c. 180, that as to errors in non-resident land assessments the county treasurer is not bound by the roll, but can receive evidence and correct errors therein; and that in this case he could have done so as to the "incorrect description," and the "erroneous charge" based thereon, and that the taxes were paid; and satisfactory proof being made on these points it would have been his duty to stay the sale, and if so, it is the duty of the court to interfere and undo the wrong. The Assessment Act recognizes the possibility of evidence being given to evade or neutralize entries upon the roll and official books. And the sale was set aside.

McCarthy, Q.C., and Pepler, for the appeal.
McMichael, Q.C., contra.

Divisional Court.]

[Nov. 17.]

GORDON ET AL. V. GORDON ET AL.

Mortgage by executors—Mortgage by specific devisees—Priority—Amount found due by master not appealed against—Variation.

The judgment of PROUDFOOT, J., reported ante, 11 O. R. 611, upheld in part.

By the court.—There should be no alteration in the amount found due by the Master when such amount was not appealed against.

Moss, Q.C., for the appeal.

E. D. Armour, contra.

PRACTICE.

Ferguson, J.]

[Nov. 2.]

CAMPBELL V. MARTIN.

Motion, enlargement of—Violating terms.

The plaintiff asked an enlargement of a motion for the purpose of answering it by affidavits. The enlargement was granted upon terms, and it appeared when the motion came up again that the plaintiff had violated the terms.

Held, that the plaintiff was not entitled to read the affidavits.

Hoyles, for defendant.

Holman, for plaintiff.

Mr. Dalton, Q.C.]

[Nov. 5.]

Ferguson, J.]

[Nov. 8.]

RE LEAK.

Master in Chambers, jurisdiction of—R. S. O. ch. 120, sec. 23.

The Master in Chambers has jurisdiction to entertain a motion under R. S. O. ch. 120, sec. 23, to annul the registry of a mechanic's lien, where the amount in question is over \$200.

J. B. Clarke, for the land-owner.

F. E. Hodgins, for the lien-holder.

Ferguson, J.]

[Nov. 8.]

RE McDougall Trusts.

Infants' money—Payment out of court—Directions of will.

A sum of money left by McD. in his will to his daughter, who predeceased him, was paid into court by McD.'s executors. The daughter by her will had disposed of her moneys which she expected from her father's estate, leaving part to her husband and part to her infant children, naming her husband executor, and directing him to invest the infants' share and expend the interest for their maintenance. It was admitted by the official guardian on behalf of the infants that there was no reasons to anticipate danger to the money if paid out to the executor.

Held, that the will of the testatrix should be respected, and the infants' moneys paid out to the executor.

Watson, for the executor.

J. Hoskin, Q.C., for the infants.

Ferguson, J.]

[Nov. 8.]

RE S—— INFANTS.

Habeas corpus—Return—Infant, custody of—R. S. O. ch. 130, sec. 1.

A return was made by the mother of the infants, in whose custody they were, to a writ of *habeas corpus* obtained by the father with the object of compelling the delivery of the custody to him. The return stated that the infants were all under twelve, the age mentioned in R. S. O. ch. 130, sec. 1.