

[Prac.]

NOTES OF CANADIAN CASES.

[Prac.]

if the Supreme Court should vary the disposition of costs made by the Court of Appeal.

Moss, Q.C., and A. C. Galt, for the defendants.

Wallace Nesbitt, for the plaintiff and the surety.

Boyd, C.]

[Dec. 15, 1884.

RE THIN.

Trustee for infants—Insurance moneys—Security
47 Vict. (O.) c. 20.

An order having been made under 47 Vict. (O.) c. 20, sec. 12, for the appointment of a trustee to receive insurance moneys to which infants were entitled, the Master in Ordinary named a person as trustee, and required him to give security in double the amount to be received.

On an *ex parte* appeal from the direction of the Master that security should be given,

Held, that it would be contrary to the uniform practice of the Court to appoint any one as the custodian of infants' money, whether as trustee or guardian, without requiring security for the proper discharge of his duties.

J. C. Hamilton, for the appeal.

Rose, J.]

[Dec. 27, 1884.

MACDONALD V. NORWICH UNION FIRE
INSURANCE SOCIETY.

Production in action—Privileged documents.

An action brought by the plaintiff as assignee of one McLean of a policy of insurance covering the goods in McLean's store.

Among the grounds of defence set up were (1) that McLean's books had been falsified; (2) that the fire had occurred through the wilful negligence of McLean.

The defendants employed two experts to investigate McLean's books and his conduct with respect to the fire, and these experts made reports.

The defendants' affidavit on production set out as documents which they objected to produce. Report of adjuster for Norwich Union Fire Insurance Society for counsel's opinion thereon. Various memoranda taken by adjuster for preparation of report and for information of counsel.

It was further stated in the affidavit that these documents were "privileged, being part

of the defendants' case, and prepared for the instruction of counsel, and prepared specially for this litigation, and in contemplation thereof."

Held, on appeal (reversing the decision of the Master in Chambers) that these documents were privileged from production.

Osler, Q.C., for the appeal.

Shepley, contra.

Rose, J.]

[Dec. 31, 1884.

RE WEST MIDDLESEX (PROVINCIAL) ELECTION CASE: JOHNSTON V. ROSS.

Ontario Controverted Elections Act—Costs—Interviewing witnesses before trial.

This was a petition under the Ontario Controverted Elections Act, R.S.O. c. 11. At the trial the petition was dismissed and the petitioner ordered to pay the respondent's costs. Sec. 100 of R.S.O., c. 11, provides that the costs may be taxed according to the same principles as costs are taxed between solicitor and client in the Court of Chancery.

Held, on appeal (reversing the decision of one of the taxing officers) that the respondent was not entitled to tax against the petitioner the costs of interviewing before the trial persons named in the petitioner's bill of particulars as bribers and bribees.

H. J. Scott, Q.C., for the appeal.

William Johnston, contra.

Mr. Dalton, Q.C.]
Cameron, C. J.]

[Jan. 6.

BROWN V. NELSON.

Interpleader—Trial of issue—Postponement.

Where the execution creditor was attacking by an action in the Chancery Division the assignment under which the claim to the stock seized by the sheriff was made, to which action the claimant and the judgment debtor were both parties, the trial of the interpleader issue between the claimant and the execution creditor was postponed till after the trial of the action.

Aylesworth, for the sheriff.

C. R. W. Biggar, for the ex-creditor.

Wallace Nesbitt, for the claimant.