

C. L. Cham.]

NOTES OF CASES.

[Chau. Cham.]

defendant to manage a cheese factory. The defendant refused to pay the plaintiff's wages, alleging that the latter had been guilty of negligence in his duties, whereby the defendant incurred loss. The present action was then brought, and the defendant pleaded the above defence by way of set off. The judge at the trial ruled that such a claim was not a subject of set-off, and his ruling was upheld by the full Court. Walton then sued Booth in the County Court for damages caused by the alleged negligence.

Watson, for Walton, obtained a summons to stay execution in the suit of Booth v. Walton until the County Court action should be disposed of, on the ground that Walton would be entitled to set off any judgment he might recover in the latter suit against Booth's judgment. The affidavit stated that Walton was a man of means, while Booth was worthless, and that unless the set-off of judgments were allowed Walton would lose the benefit of any verdict he might recover. *Alliance Bank v. Holford*, 16 C. B. N. S., 460, was cited in support of the summons.

Marsh showed cause, and contended that the stay should not be allowed, as Walton had not yet proved himself entitled to damages, but was proceeding on a mere doubtful claim. He had not furnished the particulars of the alleged damages, but had simply made a general allegation of merits in the action brought by him.

Mr. DALTON followed the case above cited, and directed that the summons be made absolute if it be shown that the County Court case will be brought to a hearing in a week or ten days.

CHANCERY CHAMBERS.

RE ROSS.

Proudfoot, V. C.] [May 28.]

Administration—Master's office—Prima facie proof of claim.

In an administration suit McM. filed a claim in the Master's office against the estate for \$11,000, and produced promissory

notes signed by deceased for the amount of the claim. Of the whole claim of \$11,000 a portion, \$284.45, was not vouched by notes. McM. offered to allow his books, etc., to be inspected at his place of business. Upon the application of the representatives of the deceased, the Master at Barrie ordered the production of the books and papers of the claimant, which required the production of books and invoices extending over a period of ten or eleven years. On appeal from the Master's order, Proudfoot, V. C., held that the order should be reversed, the claimants undertaking to permit inspection as in their own affidavit, and producing the books referring to the item of \$284.45. Appellants to have costs of appeal.

Mulock for appeal.

McDonald contra.

Referee]

POWELL v. PECK.

[June 3]

Security for costs of appeal—Bond—Execution—Stay of.

The bond for \$400 given under the provisions of sec. 26, c. 38, R. S. O., is a security for the costs of appeal only; in order to stay execution for the costs of the Court below further security must be given.

Black for appellant.

Beck for respondent.

Referee]

Proudfoot, V. C.]

[June 6.]

[June 9.]

LONDON AND C. L. AND A. CO. v. THOMPSON.

Where a bill had been filed for foreclosure and the defendant, the official assignee of the mortgagor, absconded before the bill was served, an order was granted allowing substitutional service on one of two inspectors of the insolvent's estate.

Arnoldi for applicant.

TO CORRESPONDENT.—We cannot publish the letter signed 'Wellington' as the writer does not give his name and address. The matter of it is hardly worth discussing.