

sum of money, part of which had been deposited by E. P. and part by herself, but all in the name of E.B., who was a non-existent person. E. P. died intestate before this action was brought, and no letters of administration to his estate having issued, the plaintiff applied under Rule 311 for the appointment of an administrator *ad litem*.

The Court refused to make an appointment.

Meir v. Wilson, 13 P.R. 33, approved and followed.

Carscallen for plaintiff.

Mackelcan, Q.C., for defendant.

C. P. Div'l Court.]

[Sept. 7.

In re MCGREGOR v. NORTON.

Prohibition—Division Court—Money paid into court by defendant—Plaintiff's intention to proceed—Failure to notify in writing—R.S.O., c. 51, ss. 125, 126, 127—Motion to inferior court to set aside judgment.

The defendant in a Division Court suit paid a sum of money into court as a full satisfaction of the plaintiff's demand, under R.S.O., c. 51, s. 125, and the plaintiff was notified thereof.

The plaintiff notified the clerk of the court, but not in writing, that he intended to proceed for the remainder of his claim.

Sec. 126 of R.S.O., c. 51, provides that when payment is made into court under sec. 125 the plaintiff is to be notified, "and the sum so paid shall be paid to the plaintiff, and all proceedings in the action stayed, unless within three days after the receipt of the notice the plaintiff signifies in writing to the clerk his intention to proceed . . . in which case the action shall proceed as if brought originally for such remainder only."

Held, that the words of the statute are imperative; and in the absence of the written notice all proceedings were stayed. A trial which took place afterwards was therefore a nullity; and prohibition was granted restraining proceedings upon the judgment recovered by the plaintiff at such trial.

Held, also, that an application by the defendant to the inferior court to set aside the judgment so recovered was not a bar to the motion for prohibition.

Semble, it was a convenient practice to move in the inferior court.

Decision of FALCONBRIDGE, J., 13 P.R. 28, reversed.

Kappele for plaintiff.

Bicknell for defendant.

Appointments to Office.

LOCAL MASTER.

Prescott and Russell.

Louis A. Oliver, of L'Original, Judge of the C.C. of said counties to be a Local Master of the Supreme Court of Judicature for Ontario, in and for the said counties, *vice* F. W. Thistlethwaite, resigned.

DIVISION COURT CLERKS.

Waterloo.

A. Boomer, of Linwood, to be Clerk of the Sixth Division Court of the County of Waterloo, *vice* Robert Morrison, resigned.

Bruce.

Angus McKay, of Ripley, to be Clerk of the Ninth Division Court of the County of Bruce, *vice* J. Humberstone, resigned.

Miscellaneous.

LITTELL'S LIVING AGE.—The numbers of *The Living Age* for September 7th and 14th contain *The Papacy: a Revelation and a Prophecy*, Mr. Wallace on Darwinism, by Geo. J. Romanes, F.R.S., and *The Civil List and Grants to the Royal Family*, *Contemporary*; *The French in Germany*, *Nineteenth Century*; *Giordana Bruno*, *Fortnightly*; *Some Few Thackerayana*, *National*; *In Macedonia*, William Cowper, Hippolytus Veiled, and Orlando Bridgman Hyman, *Macmillan's*; *Seen and Lost*, *Longman's*; *In praise of the Carnots*, *Murray's*; *The Papacy*, *Spectator*; with instalments of "Sir Charles Danvers," "A Modern Novelist," and "Patience," and poetry. For fifty-two numbers of sixty-four large pages each (or more than 3,300 pages a year) the subscription price (\$8) is low; while for \$10.50 the publishers offer to send any one of the American \$4.00 monthlies or weeklies with *The Living Age* for a year, both postpaid. Littell & Co., Boston, are the publishers.