

Prac.]

NOTES OF CANADIAN CASES—HAMILTON LAW ASSOCIATION.

accepting the amount paid in full of the claim, and proceeded to tax his costs. Upon taxation a question arose as to the scale of costs.

Held, that the provision in Rule 218, that the plaintiff may tax his costs, does not give him costs according to any higher scale than if he had entered judgment for the sum which he received out of court; the costs should therefore be on the County Court scale, as the whole amount of the account was over \$800, and the amount admitted by the defendant was \$170.30.

Lefroy, for the defendants.

W. T. Allan, for the plaintiff.

IN RE DOYLE V. HENDERSON.

Rescinding order—Powers of judge—Appeal.

A motion made to the Master in Chambers on the 27th October, 1886, to rescind his own *ex parte* order of 13th October, 1886, allowing the executrix of the plaintiff to issue execution for the costs of a motion for prohibition, was referred to a judge in chambers. The motion was made after execution had been issued and placed in the sheriff's hands.

Held, that neither the Master nor the judge in chambers had the power to rescind the order; and the motion was too late to be treated as an appeal.

McNab v. Oppenheimer, 11 P. R. 223, followed.

Stainer v. Evans, W. N. Dec. 25, 1886, p. 210, considered.

V. MacKenzie, Q.C., for the defendant.

W. H. Blake, for the plaintiff.

IN RE THE WESTERN FAIR ASSOCIATION
V. HUTCHINSON.*Prohibition—Division Court—Corporation—
Question of fact.*

Motion for prohibition to a Division Court on the ground that the Western Fair Association did not exist in fact or in law, and could have no title to the grand stand in dispute, and therefore the court had no jurisdiction to enforce the judgment in the suit.

Held, that the question of corporation or no corporation was one of fact, and that the decision thereon was not reviewable in prohibition.

Aylesworth, for the defendant.

W. H. P. Clement, for the plaintiff.

HAMILTON LAW ASSOCIATION.

A special general meeting of the Association was held yesterday at the Library to consider the proposed revision of the rules relative to practice.

Mr. Irving, Q.C., the President, was in the chair, and the following gentlemen were present:—Messrs. Mackelcan, Q.C., Martin, Q.C., Lazier, H. A. Mackelcan, Culross, Bicknell, K. Martin, Bruce, Q.C., Waddell, Duff, Burton, Gausby, P. D. Crerar, Kittson.

The following report of the Legislation Committee appointed by the Trustees was read:

"At the request of the Trustees the Legislation Committee have examined the draft of the proposed Revised Rules for Practice, to take effect with the Consolidated Statutes, and beg to report as follows:

"As the proposed Rules were only received a few days ago, and but one copy could be obtained from Mr. Langton, it was impossible to examine them at all critically. Some suggestions, however, have been made which your Committee would recommend for consideration; they appear in the schedule to this report; these refer to the Rules as framed.

"In order that all the Rules of Practice may be completely consolidated, your Committee think it would be desirable to abolish all prior Acts and Rules in any way affecting practice or procedure, and to declare that in all matters unprovided for, the provisions of the Consolidated Rules shall, as nearly as may be, apply, so that in any such matters an analogous practice may be created.

"Your Committee are so think that in any event the practice should be precisely the same in all divisions.

"Your Committee think that a sufficient time has now elapsed to test the working of the Judicature Act, and that a favourable opportunity is now presented for effectuating the main object of that Act in abolishing all distinctions between the Courts. And they would recommend that steps be now taken to obtain a complete and perfect fusion of the three Divisions of the High Court of Justice, so that all may not only possess the same jurisdiction but may exercise it in exactly the same way.

"As the questions for consideration are of great importance, your Committee would suggest the desirability of having a convention of delegates from all the Law Associations of the Province in order that the views of the Bar generally may be ascertained, as it might be desirable to delay the issue of that portion of the statutes relating to the practice until next year, if similar ideas are entertained throughout the Province."

On motion this report was adopted.

The resolutions of the County of York Law Association on the same subject were read, and on motion the following were adopted:

1. One judge should sit in each week for the disposal of all business of the High Court required to be done in Court and in Chambers without regard to the Divisions in which the actions are pending.

2. A uniform practice should be adopted in all the divisions of the High Court, including therein the practice at the sittings of the various Divisional Courts.

3. It would be expedient to have four sittings, held at permanent and fixed dates for the trial of non-jury cases at two or more of which sittings jury cases shall be tried, as may be determined by several orders of the court.

4. And earnest effort should be made to secure a suitable increase of the judges' salaries.