

Practice.]

NOTES OF CANADIAN CASES.—BOOK REVIEWS.

a case is postponed from one Assize to another by order of Judge at Assize, have no right to levy the fee for certifying record and the entry and jury fees over again, the former payment holding good.

The D. C. C. at St. Thomas, as Clerk of Assize, had done this and had afterwards allowed the amount to the plaintiff, who had been successful in the action on the taxation of his costs. On revision, the taxing officer at Toronto taxed the amount off, and this decision was upheld on appeal by Wilson, C. J.

In this case an order had been made by the Master in Chambers, on an application to postpone the trial, when the trial was coming on for the second time, that the case should be entered at the foot of the list, in order that the plaintiff might be examined, but it was here held that that did not necessitate a re-entry of the case, and that the case once entered remained entered on the list until it was tried, struck out or withdrawn.

Dickson for appeal.

Aylesworth, contra.

Wilson, C. J.]

[Oct. 26]

KERSTEMAN V. McLELLAN.

Capias—Foreign residence of defendant—Temporary return to jurisdiction.

Motion to set aside the writ of *capias* and all proceedings &c., or to discharge the defendant from custody on the ground that the defendant was, at the time of his arrest, domiciled in and a resident of the state of Michigan, U. S., and was within the jurisdiction of this Court for a temporary purpose only.

The defendant (a British subject) absconded from this Province with the intention of defrauding his creditors in July, 1882, and after having gone to the United States took means to become a citizen of that country, but returned to this Province more than once for a temporary purpose, and on one of these occasions was arrested under the *capias* issued in this action.

Held, that it is of no moment where the domicile of a person may be, or to what country he is bound by allegiance as a subject or citizen, if he come to this Province, and reside here, and contract debts, and is about to quit the country (that is in fact to change his residence to a foreign country, even although that country be

his place of domicile) with the intent to defraud his creditors, he is subject to the law of arrest as it prevails in that Province.

Held, that taking steps to become a citizen of a foreign country may change the domicile but not the residence.

Held, that a defendant cannot rely on a change of residence to a foreign country so as to avoid the law of arrest, to which he was subject in this Province at the time he incurred the debt upon which the action is brought, when that change of residence has been effected by a fraudulent flight to avoid arrest.

Bain, Gordon & Shepley, for the defendant.

S. G. Wood, for the plaintiff.

BOOK REVIEW.

A PRACTICAL TREATISE ON THE LAW OF ABSCONDING DEBTORS, as administered in the Province of Ontario, with a large number of Forms of proceedings that will be found useful and convenient in the practical application of the Absconding Debtor's Act, by James Shaw Sinclair, Q. C., Judge of the County Court, and Local Judge of the High Court of Justice, Toronto: Carswell & Co., publishers.

We have received a copy of the above work with a feeling of pleasure at a useful addition to the rapidly increasing number of our text books. These annotated editions of our Statutes are a very valuable form of legal literature, not only on account of their individual merits, but also because successive consolidations of the statutes, and the fact that we do not at present possess any tabulated index to cases illustrating the very enactments of our Statute law, render it by no means easy to hunt up the cases bearing on any special section which may be under investigation. The present work is admirably printed and arranged, and the learned author alleges, as we see no reason to doubt, that he has endeavored to collect and bring before the reader not only every reported case in our own courts, but also many American decisions under similar statutes. We also notice a great number of references to English decisions. In his Preface his Honor points out that the Absconding Debtor's Act may be said to be *radicivus*, by reason of the repeal of the Insolvent Acts in 1880, for that "it is the only statute we have, under which an equal distribution of a debtor's property may in certain