

the evidence, and a conviction was made against defendant, who did not appear. Defendant obtained a rule nisi on her own affidavit stating that she was not at the place spoken of, and did not arrive home until Dec. 5th, and that she had no knowledge of the alleged delivery of a paper writing against her.

Held, that the evidence of service given by the constable was good prima facie evidence of service, and that defendant's affidavit was not sufficiently explicit, and that there had been sufficient notice to her of the time and place of hearing, and that being so, it rested upon the defendant to show affirmatively that she had not received the registered letter with the notice of adjournment. Rule discharged.

A. Le B. Tweedie, in support of rule.

D. Jordon, Q.C., contra.

MCLEOD, J. }
In Chambers. }

[March 18.]

BONNELL *v.* WALLACE.

City Court of Saint John—Adjournment—Proof of presentment of note—Judgment by default—C.S. N.B., c. 60, s. 35.

Review from the City Court of Saint John. At the trial in the City Court on August 28th, 1896, the 27th being the regular Court day, both parties being present, an adjournment was made for four weeks. On September 24th, being the regular Court day for that week, the plaintiff obtained judgment by default. The day following defendant appeared at the Court to defend. The action was on a promissory note, payable on demand, and at a particular place. The plaintiff did not prove presentment.

Held, (1) That under s. 35, c. 60, C.S., evidence of presentment is unnecessary in an undefended case, but

(2) That a new trial should be had, as the magistrate had no jurisdiction to proceed with the case until the 25th of September.

Mont. McDonald, for plaintiff.

A. W. MacRae, for defendant.

TUCK, C.J., }
In Chambers. }

[April 12.]

ACKERMAN *v.* MCDUGALL.

Parish Court—Evidence—C.S. c. 60, s. 4.

Held, that the Act is obligatory that the Commissioner's return should show that the evidence taken at the trial had been read over and subscribed to by the witnesses.

Stockton, Q.C., for plaintiff.

Dunn, for defendant.

BARKER, J., }
In Equity. }

[April 20.]

JEFFRIES *v.* BLAIR.

Practice—Foreclosure and sale—Judgment—53 Vict., c. 4, s. 130.

An offer to suffer judgment by default is not applicable to a suit for the foreclosure and sale of mortgaged premises.

White, Q.C., Solicitor-General, for plaintiff.

Alward, Q.C., for defendant.