

Prac.]

NOTES OF CANADIAN CASES—CORRESPONDENCE.

by the foreign court. Terms as to diligence in prosecuting the appeal, and preservation of the defendant's property in Ontario in *statu quo* were annexed to the order.

Kingsmill, and *H. Symons*, for the plaintiff.

Robinson, Q.C., and *Aylesworth*, for the defendant.

Mr. Dalton, Q.C.]

[February 21.

IRVING V. CLARK.

Costs, security for—Order against one of two plaintiffs.

The rule that security for costs should not be ordered, where it could only be against one of two or more plaintiffs, does not now universally govern, since the law as to the joinder of plaintiffs has been changed by Rule 89, O. J. A.

Quare, whether the rule was ever applicable to the ordering of security for costs against a plaintiff who is insolvent, and not having any beneficial interest, is put forward by another person.

And where one plaintiff was suing to enforce a mechanic's lien, and the other to set aside a sale of the same property, security for costs was ordered against one alone.

S. R. Clark, and *R. A. Dickson*, for the defendants.

Dewart, for the plaintiffs.

CORRESPONDENCE.

MOTIONS FOR NEW TRIALS.

To the Editor of the CANADA LAW JOURNAL:

I observe an article in your issue of the 1st of January in reference to motions for new trials, and pointing out the difference in the practice of the different divisions of the Supreme Court of Judicature for this Province.

Why should there be any difference as regards the effect of a finding by a jury, and the subsequent entry of judgment by the court from the case where the court itself finds the fact and enters the judgment, so far as the subsequent rights of the litigants are concerned? In jury cases, unless a certificate be obtained from the presiding judge,

for immediate execution, the entry of judgment is postponed until the following term, while in non-jury cases judgment may be entered at once by the successful litigant, unless the entry of judgment be stayed by the presiding judge until the following term. The practice should be uniform.

The judge would in all cases stay the entry of judgment upon proper terms until term.

If the suggestion I throw out were adopted, there would be no necessity for orders *nisi* for new trials, and an application for either a new trial, or for a judgment in terms different from that entered by the judge at the trial, would then in all cases be by notice of motion. May I also point out that the practice of holding in the country different sittings for the Common Law and Chancery Divisions should at once cease? The whole trouble arose from the timidity of Attorney-General Mowat in framing the Judicature Act, and the somewhat unreasonable timidity of the judges in adopting the changes introduced by that Act. There is no reason in the world why the Chancery Division should not be what it professes to be—a Division of the High Court—and not, as it in reality now is, a separate court. I think the time has arrived when the judge who takes the Hall work should take everything that ordinarily comes before a single judge. He would, perhaps, be hard worked, but the entire work is within the compass of an industrious judge, devoting five days of the week at least to that purpose.

Yours,

LEX.

LIMITATION OF ACTIONS.

To the Editor of the LAW JOURNAL:

The point raised by Mr. Langton in your issue of February 1st has occurred no doubt to most of the profession, and I avail myself of your invitation to convey to your readers the view I have formed upon the subject.

It is somewhat strange that the point has not been raised before in the courts of this Province. *Allan v. McTavish*, 2 App. Rep. 278, is certainly inconsistent with *Sutton v. Sutton*, 22 Ch. Div. 511, and *Fearnside v. Flint*, 22 Ch. Div. 579, and I think that the judgment of Moss, C.J., in the first of above cases is inconsistent with his reasoning in the case of *Boyce v. O'Loane*, 3 App. Rep. 167, as I shall hereafter point out.

Our first duty is to look at the exact words of the statute which limits the recovery of certain claims to a period of ten years after the right accrues. Section 23, cap. 108 R. S. O., is as follows: