

PEW HOLDER.

See "Disturbance."

PLEADING.

A non-resident owner of lands in a municipality is not liable to be proceeded against by action for the recovery of rates imposed in respect of such lands, unless it be averred and proved that the owner had personally or in writing informed the assessor that he owned the property, and desired to be assessed therefor; and the omission of the declaration to aver such request is not cured by the defendants suffering judgment to go by default.

Berlin v. Grange, 279.

See also "Practice," 1.

PRACTICE.

1. The plaintiffs in the Court below having filed their bill to redeem, setting forth in a schedule the names of certain parties who had purchased portions of the mortgage premises, and *charging them with notice* of the defect in the title, but none of whom were made parties, nor was any reason assigned for not including them as parties to the suit; one of the defendants put in a general demurrer for want of parties, which upon argument before the Vice-Chancellor was overruled, on the ground that the prayer of the bill was in the alternative, and to the relief prayed by one of those alternatives the plaintiffs were entitled without those parties being present. *Held*, on appeal, that if for any part of the relief prayed other parties are necessary to be brought before the Court, a demurrer to the whole bill will hold; *but*, as the defendant had subsequently to the order overruling the demurrer put in his answer, *held*, that he was too late in making an appeal from that order, and the appeal from the order overruling the demurrer was dismissed *without costs*.

Simpson v. Smyth, 9.

2. A bill having been filed against trustees and executors, residing at Montreal, in the Province of Lower Canada, for an account of the estate of the testator, who, at the time of his death, and for some years previously, had been domiciled there; the trustees, &c., although not obliged to do so, had appeared to, and answered the bill, submitting to account, &c., in such manner as the Court should direct. Afterwards, and before any evidence had been taken, they discovered that there was a very important