

THE
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NO. 17.

BRITTON, J.

APRIL 27TH, 1903.

CHAMBERS.

CANADIAN BANK OF COMMERCE v. TENNANT.

Writ of Summons—Renewal—Efforts to Ascertain Whereabouts of Defendant—Statute of Limitations—Order for Renewal—Application to Set aside—Discretion.

Appeal by defendant from order of Master in Chambers (ante 277) dismissing motion by defendant to set aside ex parte order for renewal of writ of summons, the renewed writ, and the service thereon upon defendant.

J. H. Tennant, for defendant.

D. L. McCarthy, for plaintiffs.

BRITTON, J., affirmed the Master's order and dismissed the appeal with costs.

MACMAHON, J.

APRIL 27TH, 1903.

TRIAL.

BAWTINHEIMER v. MILLER.

Will—Construction—Devise—Event—"Or"—"And"—Executory Devise over—Proof of Will—Registration—Death of Witnesses.

Action to recover possession of land from defendant Miller, and to have it declared that a conveyance of the land by Smith Bawtinheimer to the defendant Sealey, and a deed by Sealey to defendant Miller, and a mortgage by Miller to Sealey, are clouds on the title which should be removed.

The plaintiff was a son of James M. Bawtinheimer, who died in 1849, leaving a will, by which he devised his farm in Dumfries to his eldest son, Levi, subject to support the family, etc.; to his son Smith and his heirs testator devised his farm in Nelson (the land in question)—"the said farm is to be kept