

Oct. 15, 1882.

NOTES OF CANADIAN CASES.

[Prac. Cases]

Prac. Cases.]

PRACTICE CASES.

Mr. Dalton, Q.C.]

[Sept. 11.]

LUCAS v. ROSS.

Special endorsement—Rule 80, O. J. A.—Motion for final judgment under Rule 80, O. J. A.

The writ was endorsed as follows: "The plaintiff's claim is for the price of goods supplied. The following are the particulars: \$621.06 for money payable by the defendant to the plaintiff, for goods bargained and sold and delivered by the plaintiff to the defendant, and interest thereon from the 25th July, 1882."

Held, by the Master in Chambers, that the endorsement was not a sufficient special endorsement to entitle the plaintiff to judgment under rule 80.

Leave given to annul and renew motion ten days from service of amended writ.

Aylesworth for the motion.

Holman, contra.

Boyd, C.]

[Oct. 9.]

RE LOVE.

Infants—Examination—R. S. O. cap. 40.

An application for the sale of of infants' estate under R. S. O. cap. 40. The property was situated in the Town of Lindsay, and was shown to be worth about \$400. There were five infants. Three of them, who were over fourteen years, had been examined before the Master at Lindsay. The other two were residing with their mother in the United States, whose affidavit, as to their age and her inability to produce them in Ontario owing to the expense, was filed.

J. H. Macdonald, for the application, submitted that the Court had a general power to relax the rule as to examination, as in similar cases where the estate was large commissioners to examine had been allowed.

BOYD, C., granted the application dispensing with examination of the two infants who were out of the jurisdiction.

ONTARIO GLASS CO. v. SWARTZ.

Division Court—Jurisdiction.

Motion for the prohibition to the 1st Division Court of the County of Kent, to stay proceedings under a judgment obtained by the

plaintiff against the defendant, an American citizen.

Held, that the process of Division Courts is of no effect outside the Province of Ontario.

Clement, for the motion.

Aylesworth, contra.

SCOTT v. CREIGHTON.

Contents of statement of claim—Omission of date of writ—Rule 128, O. J. A.—Ejectment.

The defendant moved to set aside the statement of claim, on the ground that it did not mention the date on which the writ issued, as provided by forms in appendix D. to rules O. J. A.

Murray, contra.—The rule merely says "forms may be used," and it is not therefore compulsory to follow the form verbatim.

Held, that the mention of the date of issue of writ was essential; but leave was given to amend on payment of costs, which were fixed at \$1.

FLETCHER v. NOBLE.

Division Court—Security for costs—Prohibition.

A motion for a prohibition. The plaintiff resided in the United States of America, and brought his action to the 10th Division Court of the County of York to recover \$128, the amount of a promissory note and interest.

The defendant obtained an order for security for costs.

Held, that under sec. 244, cap. 47, R.S.O., a judge of a Division Court has power to order security for costs.

Murray and *Barwick*, for motion.

Gould, contra.

Boyd, C.]

[Oct. 10.]

AITCHESON v. MANN.

Venue—35 Vict. cap. 26.

An action to restrain the infringement by the defendant, who resided and carried on business in Brockville, of a patent granted to the plaintiff under 15 Vict. cap. 26.

The plaintiff resided at Belleville, and laid the venue there.

Held, that the venue must be laid at Brockville under the statute.

Order accordingly, costs in the cause.

Hoyles, for the defendant moving.

Langton, contra.