

[Prac.]

NOTES OF CANADIAN CASES.

[Prac.]

O'Connor, J.]

[June 12.]

BOSWELL V. GRANT ET AL.

Master in Ordinary, jurisdiction of—Consolidating actions—Judgment.

The Master in Ordinary has no jurisdiction to consolidate actions in which judgments have been entered and in which references are pending in his office.

E. H. E. Eddis, for the plaintiff.

Harrison, for the defendants.

Boyd, C.]

[June 12.]

RE MONTEITH, MERCHANTS' BANK V. MONTEITH.

Costs—Appeals—Administrator—Creditors—Rule 544, O. J. A.

Costs of appeals are not carried by the words "Costs of suit as between solicitor and client," but require to be specially mentioned in the order for taxation.

The administrator is a necessary party to an administration writ, and as such should get his general bill of costs incurred in the ordinary proceedings in which he took part; but where an estate is insolvent the creditors are the persons really interested in the litigation, and it is for them, and not for the administrator, to take active steps by way of appeal to reduce the claims of the secured creditors. The administrator is entitled to attend upon the appeals and to tax a watching brief, but not such costs as if he were the principal litigant.

An appeal lies to a judge in Chambers from the decision of the Master in Chambers under Rule 544, upon appeal from a pending taxation.

Rae, for the secured creditors.

J. A. Paterson, for the unsecured creditors.

MacGregor, for the administrator.

Galt, J.]

[June 25.]

COCHRANE MANUFACTURING CO. V. LAWSON.

Arrest—Ca. sa.—Discharge—Powers of local judge.

A local judge of the High Court has no power to order the discharge of a defendant held in custody under a *ca. sa.* issued out of the High Court.

Aylesworth, for the plaintiffs.

W. R. Meredith, Q.C., for the defendant.

Boyd, C.]

[June 29.]

GEORGE T. SMITH CO. V. GREY ET AL.

Examination—Party resident out of jurisdiction—Conduct money—Objections.

The president of the plaintiff's company lived in the United States, but being in Toronto he was there subpoenaed on the 22nd April to attend on the 28th April for examination for discovery before a special examiner at Toronto. He was paid \$1, and made no objection as to the amount, nor did he object that he was prevented by engagements from being present on that day, but he failed to attend.

Held, that the president should have attended for examination on the day appointed, and that the fact that there were then pending against him, at the instance of a stranger to this action, proceedings for perjury which might affect some point in controversy in this action, though it might be a reason for his refusing to answer any question on this point, was not a reason for his refusing to attend at all, and the president was ordered to attend for examination at Toronto at his own expense.

Arnoldi, for the plaintiffs.

H. D. Gamble, for the defendants.