

Chambers, but the order was made by the Chief Justice, sua sponte: see *Bull v. North British Canadian L. & I. Co.*, 11 P.R. 83. The duty of a Judge presiding at the trial of a cause in which a notice for jury has been given, when he directs that it be tried without a jury, is to proceed at once with the trial of it. The litigants are entitled to have their cause tried in its order upon the docket, and they are the only persons whose convenience ought to be consulted, and neither the convenience of the Judge holding the sittings, nor of the jury, nor of the counsel, should be allowed to stand in the way of their right to have their cause tried in its order upon the docket.

Per STREET, J., dissenting.—The Chief Justice was not the Judge presiding at the trial, but he had the power, sitting as a Judge in Chambers to strike out the jury notices and transfer the cause to the non-jury list upon good reason being shown for not proceeding with the trial at once. The case was one in which it was proper to strike out the jury notice, but when it was struck out it did not follow that the case should be transferred to a non-jury list, but the contrary. The case, however, having been transferred to the non-jury list, should remain there, and the appeal be dismissed.

McCarthy, Q.C., and *L. G. McCarthy*, for defendants. *S. H. Blake, Q.C.*, and *R. McKay*, for plaintiffs.

Ferguson, J., Robertson, J.,
Meredith, J.

[May 6.]

IN RE MONTREAL AND OTTAWA R. W. CO. AND OGILVIE.

Appeal—Award—Railway Act—Forum—Transfer to proper Court—Rule 784.

The proper forum for the hearing of an appeal from an award under the Dominion Railway Act is a Judge in Court, and not a Divisional Court; the provision of Rule 117 respecting proceedings directed by any statute to be taken before the Court, and in which the decision of the Court is final, is not applicable to an appeal of this kind. *In re Potter and Central Counties R. W. Co.*, 16 P.R. 16, approved.

Where an appeal was brought in the wrong Court, an order was made under Rule 784 transferring it to the proper Court, upon payment of costs.

W. R. Riddell, for the company. *L. G. McCarthy*, for the claimants.

Street, J.]

IN RE HICKS v. MILLS.

[May 6.]

Costs—Scale of—County Court action—Motion to change venue—Appeal.

The costs of an application to the Master in Chambers, under rule 1219, to change the place of trial in a County Court action, should be taxed on the County Court scale, but the costs of an appeal from the Master's order to a Judge in Chambers and of a further appeal to a Divisional Court should be taxed on the High Court scale.

N. F. Davidson for the plaintiff. *J. H. Moss* for the defendant.