

Prac.]

NOTES OF CANADIAN CASES.

[Prac.]

Osler, J. A.]

[October 21.]

WILSON V. RODGER, MACLAY & CO.

OSLER, J.A., affirmed the order of the Master-in-Chambers *supra*.

George Bell, for the appeal.

Urguhart, contra.

Hodgins, Q.C.]

[Oct. 18.]

O'BRIEN V. WELLS.

Notice of trial—No place mentioned—Irregularity.

H. J. Scott, Q.C., moved on notice to set aside notice of trial as irregular upon the ground that the notice of trial did not state the place where the trial was to take place. The notice of trial read in this way: "Take notice of trial of this action at the sittings of this court for the 20th day of October next." It was admitted that the statement of claim showed the place of trial to be at the town of Stratford.

Holman, contra.

THE MASTER refused to set aside the notice of trial unless it was shown by affidavit that the plaintiff, upon whom notice of trial was served, had been misled, and as this was not shown, motion was dismissed as to this ground.

Osler, J. A.]

[Oct. 20.]

LAY V. ALEXANDER.

Final interpleader order—Sheriff's costs.

On appeal by a sheriff from the order of the Master-in-Chambers striking out so much of a former order as awarded the sheriff his costs of appearing on a motion made by the claimant. In a final interpleader order barring the execution creditor for default in giving security for costs.

Held, that the sheriff was properly served with notice of such motion and was entitled to his costs thereof.

Appeal allowed and the later order of the Master rescinded.

Clement, for the sheriff.

George Kerr, for the claimant.

Shepley, for the execution creditor.

Osler, J. A.]

[October 21.]

REGAN V. WATERS.

Appeal from Surrogate Court—Costs.

Held, upon an appeal from one of the taxing officers, that the costs of an appeal from a Surrogate Court to the Court of Appeal should be taxed on the scale of the Court appealed from as provided by Rule 28 of the Court of Appeal, and not on the scale of County Court appeals.

Holman, for the appeal.

Davidson, contra.

Boyd, C.]

[Oct. 22.]

MARTENS V. BIRNEY.

Motion for judgment—Length of notice—Chy G. O. 418—Rule 407 O. J. A.

A motion for judgment was made to the Court by the plaintiff upon two clear days' notice of motion, the defendant having appeared, but having filed no defence.

It was objected by the defendant that seven days' notice of motion should have been given under Chy. G. O. 418.

Held, that Chy. G. O. 418 is controlled by the conflicting provision of Rule 407, O. J. A., and that the two days' notice of motion was regular.

Cavell, for the plaintiff.

Masten, for the defendant.

Boyd, C.]

[October 22.]

DAWSON V. MOFFATT.

Solicitor's lien for costs.

An action for an account in the nature of a partnership account.

By the terms of the judgment pronounced at the trial costs up to the hearing were to be paid to the plaintiff out of the fund in Court, a reference was directed to take the accounts, and further directions and subsequent costs were reserved.

By the report of the officer to whom the reference was directed, the plaintiff was found indebted to the estate in a considerable amount.

A motion was made by the defendant Moffatt (pending an appeal from the Report),