

Cham.]

NOTES OF CASES—RECENT ENGLISH PRACTICE CASES.

dant should have on opportunity of making a defence, he would only vacate the judgment on the usual terms of the defendant paying the costs of the day and of the present motion.

C. Millar, for motion.

W. Cassels, contra.

CHAMBERS.

Mr. Dalton, Q.C.]

[April 9.]

MCDONALD V. FIELD.

Solicitor—Power to settle suit.

A solicitor has power to settle a suit so as to bind his client, if he acts *bona fide*, and as he believes best for the interest of the client.

J. E. McDougall for the plaintiff.

Caswell for the defendant.

Mr. Dalton, Q.C.]

[April 5.]

Term's notice to proceed.

Since the passing of the Judicature Act, a term's notice to proceed is not necessary, although a year has elapsed since the last proceeding.

H. W. M. Murray for the plaintiff.

Aylesworth for the defendant.

Mr. Dalton, Q.C.]

[April 14.]

TOWNSHIP OF MONAGHAN V. DOBLIN.

Examination of witnesses on a pending interlocutory motion, Order for—Rule 285.

The examination of witnesses who have not made affidavits on a pending interlocutory motion cannot be taken except under an order made under rule 285, O. J. A. G. O. Chy. 266 is superseded by the Judicature Act.

An appointment issued by a local Master for such an examination was set aside.

Watson for the motion.

H. Cassels, contra.

Mr. Dalton, Q.C.]

[April 17.]

HILLIARD V. THURSTON.

Transfer of actions—Power of Master in Chambers.

The Master in Chambers has no jurisdiction to transfer an action from one division of the

High Court of Justice to another. Such power can only be exercised, if at all, by a Judge.

Watson for the motion.

H. Cassels, contra.

In a subsequent case, BOYD, C., made an order of transfer, subject to the consent of the President of the Division to which the case was transferred.

REPORTS.

RECENT ENGLISH PRACTICE CASES.

(Collected and prepared by A. H. F. LEFROY, ESQ.)

BURRARD V. CALISHER.

Imp. Jud. Act, 1873, sect. 56—Ont. Jud. Act, sect. 47—Official referee—Report.

[Jan. 23.—Ch. D., 51 L.J. N.S. 223.]

KAY, J.—Although there should not be a hard and fast rule, for each case must depend upon its own circumstances, yet where under the above section the Court has directed “an account of all dealings and transactions between the plaintiff and the defendant” to be taken before the official referee, the referee should not simply certify the result, but should take the account in the way usual in the Chancery Division, and should set out the account, stating what items he has allowed and what items he has disallowed.

[NOTE—The *Imp.* and *Ont.* sections are nearly, but not quite identical. In *re Brook*, 19 W. R. 820, noted 17 C.L.J., 391, is another recent case under the above section.]

DEACON V. DOLBY.

Imp. Jud. Act, 1873, sect. 56—Ont. Jud. Act, sect. 47—Official referee—Report.

[Jan. 23.—Ch. D. 51 J.T. N.S., 246.]

Where a trial of an action has been ordered to stand over until the official Referee has reported on matters referred to him, it is not necessary to move to confirm such report, after it has been made, before restoring the action to the paper for hearing.

Motion, that an action, adjourned under the circumstances indicated in the above headnote, might stand out of the cause paper, and not be