

power of continuing the business in the meantime, and, therefore, the plaintiff's contention failed.

PRACTICE—SERVICE OF WRIT OUT OF JURISDICTION—IRREGULARITY—SETTING ASIDE SERVICE—ORD. II., R. 5 (ONT. RULE 332)—ORD. XI., R. 4 (ONT. RULE 1309, S-S. 3)—ORD. LXX., R. 1 (ONT. RULE 442).

In *Dickson v. Law*, (1895) 2 Ch. 62; 13 R. May 221, a defendant served with a writ out of the jurisdiction applied to set aside the order allowing service of a writ—the writ and service, on the ground that no affidavit had been filed by the plaintiff on the application for the order as required by Ord. xi., r. 4 (Ont. Rule 1309, s-s. 3), and because the writ was not indorsed with the notice required by Ord. ii., r. 5 (Ont. Rule 332, and see Form No. 2). The order had been made on the application of the defendant, who had applied to issue a third party notice against the absent party, and on this application he was ordered to be made a defendant, and leave given to serve him out of jurisdiction; the affidavit required by Ord. xi., r. 4 (Ont. Rule 1309, s-s. 3), had not been filed. North, J., although of opinion that the proceedings were irregular, yet held that the irregularity was not matter of substance, and under Ord. lxx., r. 1 (Ont. Rule 442), might be condoned, and he dismissed the application with costs.

ATTACHMENT—SOLICITOR—DEFAULT IN PAYMENT OF MONEY—COSTS OF TAXATION.

In *re a Solicitor*, (1895) 2 Ch. 66; 13 R. May 224, North, J., arrived at a very similar conclusion to that reached by Armour, C.J., in the recent case of *In re Knowles*, 16 P.R. 408. The motion was for an attachment against a solicitor for non-payment of money to a client. The solicitor's bill had been referred to taxation, and on the reference he was found to have been overpaid, and the order in that event directed that he should pay the client's costs of taxation. The solicitor contended that he could not be attached for non-payment of the costs of the taxation. But the court held that these were, as well as the moneys overpaid, due from him as "an officer of the court," and that he was liable to attachment for non-payment, and the attachment was directed to issue in respect of both sums.