

man and Charles, JJ., held that if notice of motion be served within the time limited by the Rule, the application is made in time, although the motion may not be actually put in the paper or brought on to be heard until the time mentioned in the Rule had expired; see *Re Sweetman v. Gosfield*, ante p. 380.

PRACTICE—DISCOVERY—PENAL ACTION—ACTION FOR FRAUDULENT REMOVAL OF GOODS.

In *Hobbs v. Hudson*, 25 Q.B.D., 232, the Court of Appeal (Lord Esher, M.R., Lindley and Lopes, L.JJ.) decided that an action for double value under II. Geo., 2, c. 19, s. 3, for the fraudulent removal of goods by a tenant, is a penal action, and one, therefore, in which the plaintiff is not entitled to examine the defendant for discovery.

PRACTICE—WRIT ISSUED BEFORE JUDICATURE ACT—RENEWAL WITHOUT LEAVE—ORD. VIII., R. I. (ONT. RULE 238).

In *Hume v. Somerton*, 25 Q.B.D., 239, the writ of summons had been issued before the Judicature Act, and had been kept renewed in the manner prescribed by the Common Law Procedure Act, until 1890, when it was served, no leave of the Court or a Judge to renew having been obtained under Ord. viii., r. 1, (Ont. Rule 238). The defendant applied to set aside the writ. The Divisional Court (Denman and Charles, JJ.) were of opinion that the provisions of the Common Law Procedure Act, regarding the renewal of writs, had been suspended by the Judicature Rules, and therefore that the writ had not been duly renewed, and it was set aside.

PROHIBITION—INFERIOR COURT—WANT OF JURISDICTION—WAIVER OF OBJECTION.

*Moore v. Gamgee*, 25 Q.B.D., 244, was an application for a prohibition to a County Court, on the ground that the action had been commenced against the defendant in a county in which he did not reside. The Court would have had jurisdiction to entertain the action if leave had been obtained to sue in that Court. The leave had not been obtained, but the defendant appeared, and the case was partly heard, and then adjourned to a future day. At the second hearing, the defendant, for the first time, raised the objection to the jurisdiction of the Court. Under these circumstances the Divisional Court (Cave and A. L. Smith, JJ.) decided that the objection had been waived, and the prohibition was refused. Cave, J., points out the difference between the case where in no circumstances would the inferior court have jurisdiction, and the case where it has a jurisdiction contingent upon some proceeding being taken; in the former case the defendants taking a step does not waive his right to object to the jurisdiction, whereas in the latter case it does.

JURISDICTION—COMPLAINT OF JUSTICES—SUMMONS ISSUED BY JUSTICE WHO HAS NOT HEARD COMPLAINT—INVALIDITY OF PROCESS—APPEARANCE UNDER PROTEST.

*Dixon v. Wells*, 25 Q.B.D., 249, was a case stated by a magistrate for the opinion of the Court. The respondent had preferred a complaint against the