

both actions, the making of the notes being admitted by G. and S. in the pleadings, the actions were consolidated, and G. was allowed to proceed with his action, S. being added as a party to it.

C. J. Holman for Burke.

D. Armour for Girvin and Spence.

BOYD, C.] [Sept. 24.
BANK OF HAMILTON v. STARK.

Postponing trial—Terms of order—Securing debt—Rule 681.

In ordering the postponement of a trial the Master in Chambers has a discretion under Rule 681 to impose terms.

And where, upon the defendants' application to postpone the trial, the Master so ordered upon their giving security for part of the amount sued for,

Held, that the term was properly imposed.

W. M. Douglas for plaintiffs.

D. Henderson for defendants.

BOYD, C.] [Oct. 8.
In re DINGMAN AND HALL.

Leave to appeal—Report of referee—Time—Judgment on further directions, effect of—Jurisdiction of judge in chambers and in court.

Held, that after the report of a referee has become absolute and a judgment on further directions founded thereon has been pronounced, drawn up, and entered, a Judge in Chambers has no jurisdiction to entertain an application for leave to appeal; nor could any appeal be entertained unless the judgment on further directions were set aside; and that could not be done even by a Judge in Court, but only by the proper appellate tribunal.

Hayles for Dingman.

Kilmer for Hall.

BOYD, C.] [Sept. 24.
LATOUR v. SMITH.

Costs—Taxation—Costs of unnecessary proceedings or witnesses—Discretion of taxing officer—Rules 1195, 1215—Costs of precept order.

By the judgment on further directions the plaintiffs were awarded the costs of the action and reference. Upon appeal from the taxation

of such costs, the defendant contended that the plaintiffs should not be allowed the costs of attendances and witnesses in the Master's office relating to items in the account in question as to which the plaintiffs failed.

Held, that the plaintiffs were entitled to all the costs properly, fairly, and reasonably incurred upon the reference, but not to costs of unnecessary proceedings or witnesses; and costs of witnesses called to establish something on which the party calling them failed, were in the discretion of the taxing officer.

Rules 1195 and 1215 considered.

Held, also, that upon taxation only one attendance should be allowed on obtaining a precept order.

Langton for plaintiffs.

Middleton for defendant.

BOYD, C.] [Oct. 1.
Re BAKER.

Solicitor and client—Taxation of bill of costs after payment, and death of solicitor—Delay in applying—Special circumstances—Terms.

A bill of costs rendered by a solicitor in October, 1888, was paid shortly afterwards, but upon the undertaking of the solicitor, contained in letters written by him, that the payment was to be subject to the taxation of the bill at any time. The solicitor died in May, 1889, and no application for taxation was made till the 2nd of September, when an *ex parte* order was obtained from the Master in Chambers for taxation, the letters of the solicitor not being produced nor any special circumstances shown. Upon the application of the executor of the solicitor to the Master to set aside his *ex parte* order the letters were produced.

Held, that the Master was not bound to vacate his first order, although it was wrong; but, there being no imputation of bad faith, was right in giving leave to amend the order so as to do substantial justice; and, notwithstanding the death of the solicitor after being paid, there was jurisdiction to order a taxation as against his representative, under the circumstances.

The application being within the year came under s. 46 of the Solicitor's Act, R.S.O., c. 147, and "special circumstances" to justify a taxation existed in the fact of the letters having been written by the solicitor; but the delay of the applicants and the death of the solicitor