

OSLER, J.A.]

[April 22.]

TOOGOOD v. HINDMARSH.

Jury notice—Striking out—Legal and equitable issues—Irregularity—Discretion.

Where both legal and equitable issues are raised by the pleadings, a jury notice cannot be regarded as irregular.

Baldwin v. McGuire, 15 P.R. 305, distinguished.

Where it is apparent that an action should be tried without a jury, a Judge in Chambers will strike out the jury notice as a matter of discretion.

L. G. McCarthy, for the plaintiff.

W. H. Blake, for the defendant.

BOYD, C., }
In Chambers. }

[April 24.]

IN RE GEROW v. HOGLE.

Prohibition—Division Court—Procedure—Issue of blank summons—R.S.O. c. 51, s. 44.

The issue by the clerk of a Division Court of a summons with a blank for the name of a party, which is afterwards filled up by the bailiff pursuant to the clerk's instructions, though contrary to the provisions of s. 44 of the Division Courts Act, R.S.O. c. 51, does not affect the jurisdiction of the Division Court, nor afford ground for prohibition, but is a matter of practice or procedure to be dealt with by the Judge in the Division Court.

G. H. Stephenson, for the primary debtor and garnishee.

DuVernet, for the primary creditor.

BOYD, C., }
In Chambers. }

[April 27.]

IN RE CLAGSTONE AND HAMMOND.

Land Titles Act—R.S.O., c. 116, ss. 61, 131—Cautioner—"Interest"—Appointee of purchaser—"Owner"—Implied revocation of appointment.

The provision of the Land Titles Act, R.S.O., c. 116, permitting registration of cautions against registered dealings with lands, s. 61, applies to "any person interested in any way" in the lands.

Held, that, as the Land Titles Act relates mainly to conveyancing, whatever dealing gives a valid claim to call for or receive a conveyance of land is an "interest" within the scope of the statute; and an appointee or nominee of the purchaser of an interest in lands has a locus standi as cautioner; and where such an appointee registered a caution as "owner," and there was no doubt of the substantial nature of his claim, his caution was supportable as against any objection in point of form, by virtue of s. 131.

Held, also, that an action brought by the original purchaser, after the registration of her appointee's caution and pending proceedings to set it aside, for specific performance of a contract to convey to her the interest, in respect of which she had made the appointment, did not, under the circumstances in evidence, put an end to such appointment.

George Ross, for the registered owner.

Moss, Q.C., for the cautioner.