

Chy. Div'l Court.]

LAUDER v. DIDMON.

[Feb. 23.

Jury notice—Striking out—Discretion—Judicature Act, R.S.O., c. 44, s. 80—Convenience—Exclusive jurisdiction of Court of Chancery—Injunction—Nuisance—Time for giving notice.

Since the passing of the Rules of 4th January, 1894, providing for the holding of separate jury and non-jury sittings for the trial of actions, it is desirable to have the question whether an action is to be tried with or without a jury settled at as early a stage as possible.

A Judge in Chambers has full discretion under s. 80 of the Judicature Act, R.S.O., c. 44, to order that an action shall be tried without a jury, and that discretion is not lightly to be interfered with.

And where a Judge in Chambers reversed an order of a local judge, and struck out a jury notice in an action for an injunction to abate a nuisance and for damages, his order was affirmed on appeal.

Held, per ROBERTSON, J., in Chambers, that the action was one within the exclusive jurisdiction of the Court of Chancery before the Administration of Justice Act, 1873, and could also be more conveniently tried without a jury.

Quare, also, per ROBERTSON, J., whether a defendant can properly give a jury notice before delivery of his statement of defence.

C. D. Scott for the plaintiff.

James Bicknell for the defendant.

Flotsam and Jetsam.

To the Editor of THE CANADA LAW JOURNAL :

SIR,—If all the jokes perpetrated in Osgoode Hall could be raked out of its misty past, I don't doubt but that you would have humorous material with which to garnish your columns for years to come. One of these was related to me by the hero thereof, and is too good to be lost. The writer studied with the late Wm. W. S—, in his lifetime, of Perth, barrister and M.P.P., who, relating the story, laughed "consumedly" at the ridiculous mistake he had made.

The temporal power of the Popes is a thing of the past, but in the early days of many a graduate of Osgoode Hall it was a fact, the territory owning their sovereignty being known as "the States of the Church."

Mr. S. went up for his examination as a student-at-law somewhere about the year 1850. The Benchers then took the "exams" themselves, one of them being Sir John B. Robinson, who undertook to test Mr. S.'s acquaintance with ancient geography, and queried: "Mr. S., where was the River Styx situated?" This was a poser for Mr. S., whose knowledge of ancient geography was limited. He, however, made a shot at it: "In Italy, sir." Sir John—"In what part of Italy, Mr. S.?" Completely in the dark, Mr. S. made the following venture in reply: "In the States of the Church, sir." The Benchers looked at one another a moment, and then burst into uncontrollable laughter. The joke of one of the rivers of hell being located—of all places in the world—in "the States of the Church" tickled them immensely. The innocent and perplexed look of Mr. S., no doubt, added to their enjoyment.

Some cynical people, thinking of the sale of indulgences and the horrors of the Inquisition, might remark that Mr. S. hit nearer the bull's-eye than he thought of. Be this as it may, the joke, perhaps, gave its hero a lift, for he was passed.

Yours, etc.,

J. H. B.