

*Held*, that making the deposit to the registrar of the Court in which the petition was filed was a sufficient compliance with the act.

*Held*, further, that in the N. Perth case the deposit was made to the officer who was the accountant of the Supreme Court of Judicature, and, therefore, the proper officer to receive moneys paid into any of the Divisional Courts.

Motion dismissed with costs.

North Perth case :

*Lash, Q.C.*, for the motion.

*Aylesworth, Q.C.*, contra.

West Northumberland case :

*Ferguson, Q.C.*, for the motion.

*Aylesworth, Q.C.*, contra.

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Ottawa, Feb. 22, 1892.

New Brunswick.]

ESSON v. MCGREGOR.

*Promissory note—Failure of consideration—Laches.*

In an action on a promissory note the defence set up was that it was given in purchase of a machine for polishing wood, which machine did not do the work for which it was purchased and which it was represented to do. At the trial the evidence showed that the machine had been used for a long time in connection with building cars; that the work was under control of a contractor with the defendant; and that the superintendent of defendant's establishment had inspected the cars as they were finished and delivered, as well as watched the progress of the work. Evidence was offered on behalf of the defendant to show that the contractor had never told him that the machine was defective, and he never knew it until the case was tried; and that the machine could not be used until a fan had been attached to it for keeping off the dust. The defendant himself was not examined nor was an effort made to obtain the evidence of the contractor, who had left the province. The jury found in favour of plaintiffs, and a new trial was refused on the ground that defendant must be charged with the knowledge of the contractor, or at all events his superintendent was in a position to discover