

tration in pursuance of the rules of the defendant society. These rules provided that disputes between the society and any member should be settled by a reference to arbitration, and that five arbitrators should be elected by the members at a general meeting, of whom three should be chosen by lot by the complaining member to decide the matter in dispute. No arbitrators were elected under the rules until after the action was commenced, and it was held by North, J., that as the rules contemplated the election of a standing body of arbitrators, out of whom three were to be chosen, that the society could not, after litigation had been commenced, select the tribunal to decide it, and the application was therefore refused.

WILL—CONSTRUCTION—CODICIL—EXECUTION OF POWER.

In re Blackburn, Smiles v. Blackburn, 43 Chy.D., 75, North, J., was called on to decide whether a power of appointment had been well executed under the following circumstances: A husband having, under a settlement, after the decease of his wife, a testamentary power of appointment, before her decease made a will of all property he "might be possessed of, or over, which he might have power of bequest or disposal at the time of his death." After his wife's death he made a codicil confirming his will. The learned Judge held that although he could not execute the power in his wife's lifetime, the effect of the codicil was to reiterate the words of the will, and therefore the power was well executed.

PRACTICE—PARTITION ACT—INQUIRY AS TO PERSONS INTERESTED.

In Wood v. Gregory, 43 Chy.D., 82, which was a partition action brought in respect of an estate valued at £10,000, North, J., refused to determine on affidavits at the hearing who were the persons interested, but directed an inquiry, although conceding, that where the estate was of small value and the case simple, the inquiry might be dispensed with.

Correspondence.

DIVISION COURT LAW.

To the Editor of THE CANADA LAW JOURNAL:

SIR,—By section 207 (2) of the Division Courts' Act it is provided that "in all actions or other proceedings brought in a Division Court, in which the plaintiff fails to recover judgment, by reason of the Court having no jurisdiction over the subject matter thereof, the judge presiding in the Court shall have jurisdiction over the costs," etc. R. 1256 (of Consolidated Rules) makes a similar provision as to County Courts and Division Courts.

Now, in order to give the judge authority to deal with the costs, it would seem to be necessary that it first should appear that the plaintiff's failure to recover judgment was wholly dependent on the want of jurisdiction of the Court.