

ROBERTSON, J.]

[May 26.]

MERCER CO. v. MASSEY-HARRIS CO.

Venue—Change of—Expediting trial—Illness of witness—Costs.

The place of trial of an action may be changed for the purpose of expediting the trial.

And where the plaintiffs named Barrie as the place of trial, and the defendants had it changed to Toronto, and, through no fault of the parties, the action was not tried at the spring sittings there, nor at Barrie under an alternative order, it was, on the application of the plaintiffs, changed to Bracebridge, where a summer sittings had been appointed, a witness for the plaintiffs being so dangerously ill that he might die at any moment, and there being no summer sittings at Toronto or Barrie.

Costs were not given against the plaintiffs, as they were not in fault.

Bleakley v. Easton, 9 U.C.L.J. (O.S.) 23; *Mercer v. Voght*, 4 U.C.L.J. (O.S.) 47; and *McDonell v. Provincial Insurance Co.*, 5 U.C.L.J. (O.S.) 186, specially referred to.

F. E. Titus for the plaintiffs.

A. Mills for the defendants.

BOYD, C.]

[May 30.]

BARBER v. ADAMS.

Attachment—Disobedience to subpoena—Substituted service.

A witness is not liable to attachment for disobedience to a subpoena served substitutionally pursuant to an order authorizing such service.

Mills v. Mercer, 15 P.R. 281, applied and followed.

N. McCrimmon for the plaintiff.

Kilmer for the witnesses.

BOYD, C.]

[June 2.]

REGINA v. GILLESPIE.

Evidence—Criminal Code, 1892, ss. 584, 843—Appeal to Session—Subpoena to witnesses in another province.

Under the provisions of ss. 584 and 843 of the Criminal Code, 1892, it is competent for a judge of the High Court or County Court to make an order for the issue of a subpoena to witnesses in another province to compel their attendance upon an appeal to the General Sessions from the action of justices of the peace under ss. 879 and 881.

F. E. Hodgins for the applicant.

BOYD, C.]

[June 2.]

ADAMS v. ANDERSON.

Summary judgment—Rule 739—Conditional leave to defend—Payment into court—Discretion.

In an action to recover \$1,547.47, the plaintiffs moved for summary judgment under Rule 739, and the defendant set up as a defence that the plaintiffs