

Prac.]

NOTES OF CANADIAN CASES—OBITUARY.

costs in similar cases, and as the plaintiff was obliged to sue in the Division Court at the risk of prohibition, or in the County Court, and lose his costs, that the defendant should get no costs of this motion, unless he successfully resists the suit to be subsequently brought to recover the amount of the note.

*Shepley*, for the motion.

*Aylesworth*, contra.

Rose, J.]

[June 3.]

HILLIER V. ARTHUR.

*Setting aside judgment at trial—Rule 270, O. J. A.*

The plaintiff, not appearing at the trial which took place at the Picton Assizes before PATTERSON, J.A., judgment was directed to be entered for the defendant with costs.

Application was subsequently made to the learned judge at the same assizes to set aside the judgment, and reinstate the case on the list. This was refused, the plaintiff not being then ready to go on. Application was then made by the plaintiff to the Master in Chambers under Rule 270, O. J. A., to set aside the judgment entered at the trial. This motion was enlarged before ROSE, J. in Chambers, who

*Held* that Rule 270, O. J. A., does not give jurisdiction to the Master or a Judge in Chambers.

*Clement*, for the motion.

*Aylesworth*, contra.

The Master in Chambers.]

[June 3.]

RE FITZGERALD, A SOLICITOR.

*Bills of costs—Delivery and taxation—Præcipe order.*

Upon a motion in chambers for an order for the delivery and taxation of a solicitor's bills of costs, relating to certain proceedings under mortgage,

*Held*, that the Chancery practice of obtaining such orders on *præcipe* is the more convenient one, and should prevail in all divisions of the High Court of Justice.

Order made with costs as of a *præcipe* order.

*Holman*, for the motion.

*Clement*, contra.

## OBITUARY.

HON. JOHN GODFREY SPRAGGE.

On the 1st of May last we recorded the death of the late Chief Justice of the Court of Appeal, and now fulfil our promise of a brief sketch of the prominent phases in the life of this distinguished judge.

John Godfrey Spragge was born in England on the 16th September, 1806, at Newcross, in the county of Surrey, and came to Canada with his father's family in 1820. He attended the school of the late Bishop Strachan, until he began the study of law in the office of the late Sir James B. Macaulay. He was also for a short period in the office of the late Hon. Robert Baldwin. After having been called to the bar he soon enjoyed a large practice as a special pleader, and as the business of the office of Master in Chancery was small, and did not interfere with his general business, he accepted that office in 1837. He was also a Benchman, and for several years Treasurer of the Law Society.

In December, 1850, he was appointed Vice Chancellor of Upper Canada, and in December, 1869, Chancellor of Ontario, and retained that position until the 25th April, 1881, when he was promoted to the position he occupied at the time of his death, and which he attained owing to the lamented death in comparative youthfulness of Chief Justice Thomas Moss, one of the most brilliant and promising judges that ever adorned the Bench in this or any other country.

Chief Justice Spragge at the time of his death, on the 20th April last, had held judicial rank for thirty-three years and upwards. For his work and qualities as a judge reference is made to the reports of the respective courts over which he presided. It would be superfluous to attempt to add anything to what has already been recorded in these pages with respect to the late Chief Justice Spragge, by the Law Society, at a meeting of the members which took place on the 22nd of April last, nor to the touching allusion to him by his eminent brother, Chief Justice Hagarty, in his address to the grand jury, in the April court, on the previous day. But we may say that whilst his learning was great, his keen discernment of facts in cases before him was a remarkable feature of his judicial usefulness. To the Bar he was a model of courtesy, and his relations with those who came in contact with him in the many years