

MACLENNAN, J.A.]

[Feb. 16.

DRAPER v. RADENHURST.

Appeal to Supreme Court of Canada—Notice of appeal—R.S.C., c. 135, s. 41—“Special case,” meaning of.

The judgment upon a special case, intended in s. 41 of the Supreme and Exchequer Courts Act, R.S.C. 135, is a judgment on the kind of case well known by that name, and it has no reference to the case which, by the practice of the Court of Appeal for Ontario, is prepared for the purpose of the appeal.

An objection to a bond on appeal from the Court of Appeal to the Supreme Court that notice of appeal was not given within twenty days pursuant to s. 41, upon the ground that every appeal from the Court of Appeal is “upon a special case,” was therefore overruled.

W. H. Blake for the appellants.

Masten for the respondent.

Divl Court.]

[May 20, 1890

IN RE RUSH.

Appeal—R.S.O., c. 133, s. 9.

Held, that an appeal does not lie to a Divisional Court from the order of a judge of the High Court of Justice under R.S.O., c. 133, s. 9, dispensing with the concurrence for the purpose of barring her dower of the wife of an owner of land, selling or mortgaging it free from dower.

Masten for the appeal.

Kappele contra.

Notes of U. S. States Cases.

WEST VIRGINIA COURT OF APPEALS

[Nov. 14.

MCCLAIN v. LOWTHER.

Cheque—Delay in presenting—Liability of drawer.

Held, (1) that the drawing and delivery of a cheque implies the indebtedness of the drawer to the payee to the amount of the cheque, and in an action upon the cheque it is unnecessary to aver in the declaration any further consideration.

Held, (2) that where a cheque is not presented in time, and notice of non-payment is not given, injury to the drawer will be presumed; but a cheque is always presumed to be drawn on actual funds; and while if the holder has been guilty of laches in not presenting it in due time, or in failing to give notice of non-payment, it becomes incumbent upon him to show that the drawer has not been injured by the dereliction, yet, on the other hand, if he shows that drawer had no funds in the bank against which he drew, the burden of proving actual damage is shifted upon the drawer, and in the absence of such proof, the plaintiff is entitled to recover.

Appointments to Office.

COUNTY COURT JUDGES.

County of Brant.

William David Jones, of the City of Brantford, in the Province of Ontario, Esquire, and of Osgoode Hall, Barrister-at-Law: to be Deputy Judge of the County Court of the County of Brant, in the said Province of Ontario.

United Counties of Stormont, Dundas and Glengarry.

Robert Abercrombie Pringle, of the Town of Cornwall, in the Province of Ontario, Esquire, and of Osgoode Hall, Barrister-at-Law: to be Deputy Junior Judge of the County Court of the United Counties of Stormont, Dundas and Glengarry, in the said Province of Ontario.

REGISTRARS IN ADMIRALTY.

District of British Columbia.

James Charles Prevost, of the City of Victoria, in the Province of British Columbia, Esquire: to be Registrar in Admiralty of the Exchequer Court in and for the District of British Columbia.

COUNTY ATTORNEYS.

County of Welland.

Thomas Dalziel Cowper, of the Town of Welland, in the County of Welland, Esquire, Barrister-at-Law: to be County Attorney and Clerk of the Peace in and for the said County of Welland, in the room and stead of Lorenzo Dulmage Raymond, Esquire, deceased.