

C. L. Ch.]

NOTES OF CASES.

[Chan. Ch.]

BROWN V. CORPORATION OF YORK.

Mr. Dalton, Q.C.] [Oct. 31.]

Pleading—Jurisdiction—Plea in bar.

The plaintiff brought his action against the Corporation of the County of York, for non-repair of a highway at Islington, not stating in what county that place was situated, and laid his venue in Peel. The defendant pleaded that the Court ought not to have further cognizance of the action, because the cause of action was local and arose in York and not in Peel. He also pleaded pleas in bar.

Held, that this being a plea to the jurisdiction it could not be pleaded along with pleas in bar.

THORBURN V. BROWN.

Mr. Dalton, Q.C.] [Oct. 31.]

Examination of parties—Order to re-examine.

A party, who has before judgment examined another party to the cause adverse in interest, is not entitled to a re-examination of the same party, except under the most special circumstances.

HYDE V. CASMEA.

Mr. Dalton, Q.C.] [Oct. 31.]

Similiter—Jury notice—Joinder.

The plaintiff joined issue upon the defendant's pleas and at the same time filed a similiter, without a jury notice. The defendant afterwards filed a second similiter, and with it a jury notice.

Held, that the first similiter was good, that the second was unnecessary, and must, together with the jury notice, be struck out.

CHANCERY CHAMBERS.

BIGGAR V. WAY.

Blake, V. C.] [Oct. 27.]

Abatement—Time—Practice.

In this case the Master's report made in March, 1879, fixed the 17th September following, for Austin and Hilton, the subsequent encumbrancers, to redeem. The sole plaintiff died on 24th of May, 1879, an order of Revivor was obtained on 24th June, 1879, and served on the 1st September, 1879.

An order of the Referee appointed a

new day for payment, allowing Austin and Hilton an additional length of time to redeem, equal to the time the suit remained abated, viz., from 24th May to 14 days after the service of order of revivor.

Miller, for the representatives of the plaintiff appealed from the Referee's order.

Spencer, contra.

BLAKE, V.C., considered that the practice of allowing such time on abatement well settled and dismissed appeal with costs.

IMPERIAL LOAN COMPANY V. O'SULLIVAN.

Spragge, C.] [June]

Subsequent encumbrancers—Priority.

Where there were two encumbrances registered against property, the first encumbrancer pressing the mortgagor for payment, and selling out the chattels in a hotel on the property, and where at the request and instance of the mortgagor, and to stop such sale, A advanced \$1,000 to the first mortgagee, and took a mortgage to secure himself from the mortgagor, but with no understanding with the first encumbrancers.

Held, that A, though he reduced the first mortgage by \$1,000, and so bettered the position of the second mortgage by that amount, could not in the absence of express stipulation with the first mortgagee obtain priority over the second mortgage.

O'Sullivan, for defendant (appellant).

Worrell, for defendant Crombie (respondent).

CANADA REPORTS.

SUPREME COURT OF CANADA.

ELECTION CASES.

THE MONTMORENCY CASE.

VALIN V. LANGLOIS.

Con. Elec. Act, 1874, held constitutional—Power of Dominion Legislature to confer on Courts, authority to deal with election cases—Con. Elec. Act, 1874, established a Dominion Election Court, when it utilised Provincial Courts and Judges.

[Ottawa, Oct. 28, 1879.]

Appeal from the judgment of the Hon. Mr. Chief Justice Meredith of the Superior