

obtained a garnishee order attaching this money in the hands of the returning officer.

A. G. Blair, jr., for the petitioner, Hickman. As this money is in the hands of the returning officer as an officer or servant of the Crown, and is also subject to a contingency, it cannot be garnished.

Dunn, for the judgment creditor. These objections can only be raised by the judgment debtor, and it is not competent for the applicant in this summons to avail himself of these objections.

FORBES, CO. J. : There is no doubt in my mind that this money was lent by H. to K.'s agent, and was used by him as a deposit at the then election, to be returned to him as soon as the election was over ; and the evidence shows that they did all in their power to prevent the money coming into the hands of the judgment debtor. It appears by the affidavit of A. I. Chapman that on the very day H. lent the money he took from K. the following order : " Return to A. I. C., or order, the \$200 deposited for me in the matter of the Dominion election contest for the county of Westmoreland, August 17th, 1895.

" AMASA E. KILLAM, Candidate.

" To the Returning Officer for the Returning District of Westmoreland."

We find, then, as early as the 17th of August, six days before the garnishee order issued, that K. describes the money as deposited for him, not deposited *by him*, which is in entire concord with the claim set up by H.

I have, therefore, no difficulty in finding that the money deposited with the returning officer is the property of H. ; that it never was in the possession of K. ; and I order that such money, deposited as aforesaid, be discharged from the claim of the judgment creditor ; and that the same be paid over to H. by the returning officer.

In view of all the circumstances, I think the judgment creditor had a right to suppose the money was the property of the judgment debtor. I therefore make this order without costs to either party.

[On November 5th a rule *nisi* for a *certiorari* was obtained from the Supreme Court *en banc*.]

FORBES, CO. J.]

LASKEY v. PALMER.

[Nov. 1

Practice—Non-suit—Motion for, after verdict.

In an action brought in the County Court of the County of St. John to recover \$87 for breach of contract, the jury returned a verdict for the plaintiff for \$70.

Col. Stat., c. 51, s. 8, which gives the County Court of St. John jurisdiction, enacts : " Provided always that the said (County) Court shall not have or exercise any jurisdiction in any cause in which the City court of St. John has jurisdiction."

The city court of St. John has jurisdiction " over all actions of debt, upon specialty or otherwise, where the sum demanded does not exceed \$80."

After the jury returned their verdict, but before it was recorded, the defendant moved to enter a non-suit on the ground that the action should have been brought in the city court.