

Boyd, C.]

STEVENSON v. STEVENSON.

[Nov. 28.]

*Alimony—Costs—Interim order—Disbursements—Undertaking.*

Notwithstanding the language of Rule 1144—"only the amount of the cash disbursements actually and properly made by the plaintiff's solicitors"—an order may be made in an action for alimony for payment by the defendant to the plaintiff's solicitors of a sum to cover prospective witness fees upon the undertaking of the solicitor to account for all sums not actually and properly disbursed.

*J. H. Moss* for plaintiff. *W. E. Middleton* for defendant.

## Province of Nova Scotia.

### SUPREME COURT.

Townshend, J., in Chambers.]

[Sept. 30.]

VICKERS v. BOYD.

*Pleading—Embarrassment—Assault.*

Action for assault. Plea by way of justification that defendant was "a duly appointed policeman for the Town of North Sydney, and in the course of his duty arrested the plaintiff, and did not use more force than was necessary to effect such arrest."

*Held*, that as it is not the duty of a policeman to arrest except for cause, the above plea was embarrassing and no answer to the action.

*McNeil* for plaintiff. *Fulton* for defendant.

Townshend, J., in Chambers.]

[Oct. 20.]

IN RE MARSHALL.

*Infant—Custody—Estoppel on parent.*

Habeas corpus to the director of the Halifax Ladies' College to bring before a judge one Nelly Marshall an infant daughter of the applicant.

The facts were shortly as follows: The infant was the daughter of the applicant and his wife Laura, formerly Laura Logan. The father was a Roman Catholic, but apparently seldom attending church, and his wife a Presbyterian. The child was baptized and brought up in the Presbyterian church, the father not objecting during his wife's lifetime. She died in 1897, at which time the applicant, at his wife's request, gave the child to her sister Annie Logan to be brought up by her, the aunt being also a Presbyterian. The aunt and child then removed to Halifax from British Columbia, where the wife died, and was brought up by her, attending the Presbyterian services and becoming a member of that body. These facts