

outlet his award is no protection to the persons acting under it as against a person not a party to it.

Judgment of the Drainage Referee varied.

Matthew Wilson, K.C., *Tiffany*, and *Costello*, for appellant. *Leitch*, K.C., for respondent.

HIGH COURT OF JUSTICE.

Boyd, C., Meredith, J., Idington, J.]

[June 7th.

LUCAS v. HOLLIDAY.

Sheriff—Interpleader—Seizure of goods—Interest of execution—Debtor as co-owner—County Court Appeal—Proceedings not certified.

A sheriff acting under the plaintiff's execution entered upon the lands of the claimant and seized hay and oats alleged to be the property of the execution debtor. The owner of the land asserted that he was the absolute owner of all the hay and oats seized. The execution creditor alleged that the execution debtor was entitled to a one-half interest therein.

Held, that the sheriff was entitled to an interpleader order; the issue to be framed so as to determine whether the execution debtor had any and if so what interest in the hay and oats seized.

MEREDITH, J., dissented, and was also of opinion that the case (on appeal from an order in a County Court action) was not properly before the court because the proceedings had not been certified.

E. G. Porter, for the sheriff and execution creditor. *R. C. Clute*, K.C., for the claimant.

Teetzel, J.]

MIALI v. OLIVER.

[June 10.

Warehousemen—Damage by rats—Goods lost or stolen—Dampness.

Goods consisting of household furniture, were stored under lock and key in a separate compartment of a brick warehouse, but were afterwards removed by the warehousemen, without the owner's consent, first to another compartment in the same building, and then to a frame building, formerly used as a boathouse and part of which was used as a stable:—

Held, that the warehousemen, in the absence of reasonable precaution to prevent injury therefrom, were liable for injuries caused by rats in the last named building, existence of which the warehousemen were aware, and they were also liable for certain of the goods which were lost, as the removal of the goods had been without the owner's consent and from a place of comparative safety, and that they were not protected by a condition in the warehouse receipt, which relieved them from responsibility for loss or damage caused by irresistible force, or inevitable accident or from want of special care or precaution; but they were not liable for damage