

If the parties are willing, the money can be retained by the bank as if it was in Court. Probably the three executors will be able to adjust their difficulties and to agree in the management of the estate without any further litigation.

I have also been referred to a case of *Gollis v. Dominion Bank*, decided by Meredith, C.J., in July, 1903. . . . See, too, *Morse on Banking*, 4th ed., vol. 2, sec. 438, and cases cited; also vol. 1 of same work, sec. 342, first clause.

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CARTWRIGHT, MASTER.

SEPTEMBER 27TH, 1906.

CHAMBERS.

CANAVAN v. HARRIS.

*Discovery—Examination of Defendant—Refusal to Answer Questions—Relevancy—Pleading—Statement of Claim.*

Action by the widow of the late John Canavan to recover damages for his death. It was alleged that the deceased was run over by a servant of the defendants who was acting within the sphere of his ordinary duties.

In the 5th and 6th paragraphs of the statement of claim it was charged that defendants' servant was intoxicated at the time of the accident, and had been for some time previous of unsteady habits and frequently intoxicated, and was not fit to be intrusted with the business of defendants, as they well knew.

The statement of defence denied formally all the material allegations of the statement of claim. It then alleged that the deceased was the cause of his own death, or else that it was inevitable accident.

This statement of defence was delivered on 4th September.

The defendant John B. Harris was examined for discovery on 18th September. He refused to answer questions directed to sustain the allegations in the statement of claim of the defendants' servant having been addicted to the use of intoxicating liquor, to the knowledge of defendants, prior to the accident.