

[Prac.]

NOTES OF CANADIAN CASES.

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Boyd, C.] [Dec. 23, 1885.]

**BOULTON V. BLAKE.**

*Extraordinary discovery—Rule 285, O. J. A.—Discretion of Court—Information for purpose of pleading.*

The right of extraordinary discovery must be jealously guarded lest it be abused, and it should, under Rule 285, O. J. A., be conceded only when it is clearly proved to be necessary for the furtherance of justice. An application to examine under Rule 285 is in the discretion of the Court, and that discretion could not be said to have been wrongly exercised in allowing the defendant to examine the plaintiff and three witnesses before delivering the defence, in order to obtain for the purpose of pleading a knowledge of material facts, which the defendant could not otherwise get.

*Walter Barwick*, for the plaintiff.

*Small*, for the defendant.

Boyd, C.] [Dec. 23, 1885.]

**SCHRAGG V. SCHRAGG:**

*Solicitor—Costs—Payment—Retaining moneys—Stipulation—Delivery of bill.*

Solicitors retained out of moneys in their hands belonging to their client sufficient to pay their costs of the action, and handed the client a cheque for the balance. The client accepted the cheque, but did not cash it till she had written to the solicitors, stipulating that the cashing should be without prejudice to her right to recover a larger sum if she could shew that a larger sum was due. After the lapse of a year from this transaction the client applied for an order for the delivery of a bill of costs.

*Held*, that the circumstances did not constitute payment of the costs, and the order for delivery was made.

*Re Sutton*, 11 Q. B. D. 377, distinguished.

*Holman*, for the solicitors.

*Aylesworth*, for the client.

Boyd, C.] [Dec. 23, 1885.]

**STANDARD INSURANCE CO. V. HUGHES.**

*Interpleader—Claimants—Attaching creditors—Appeal.*

*Held*, following *Leech v. Williamson*, 10 P. R. 226, that attaching creditors are such claimants as are embraced within the provisions of the Interpleader Act, and a sheriff is entitled to apply under the Act for relief in respect of a claim made by such creditors upon moneys in his hands, the proceeds of a sale under execution.

Although *Macfie v. Pearson*, 8 O. R. 745, in effect decides that the execution creditor who has seized before process against the defendant as an absconding debtor has issued is to be paid in priority, yet that decision, having been rendered by consent in a summary way, is not binding upon the claimants, who may choose to litigate upon issues which can be carried to appeal.

*Holman*, for the sheriff.

*Aylesworth* and *Seton Gordon*, for the attaching creditors.

*Masten*, for the execution creditors.

*W. H. P. Clement*, for certificated creditors.

Mr. Dalton.] [Dec. 28, 1885.]

Boyd, C.] [Jan. 13, 1886.]

**SMITH ET AL V. GREY ET AL.**

*Foreign commission—Evidence—Restricting—Solicitors' use of knowledge.*

*Held*, that the Court in allowing a foreign commission to be opened before the trial could not impose upon the parties restrictions as to the use to be made of the knowledge of the evidence which would then be acquired by the solicitors.

*Arnoldi*, for the plaintiffs.

*H. D. Gamble*, for the defendants.