Canada Law Journal.

VOL. LIII. TORONTO, JUNE, 1917. No. 6

SUPPLEMENTAL RELIEF.

The case of *Hoffman* v. *McCloy*, 38 O.L.R. 446, deals with a somewhat important question of practice which it leaves in a rather doubtful position because it is not very clear whether the case can be regarded as an authority on the question of jurisdiction which is the main point discussed in the case, having regard to the dissentient judgment of the learned Chief Justice of the Common Pleas on that question, notwithstanding the fact that he actually concurred in the result arrived at by the majority of the Court.

The point involved was comparatively simple and the difference of opinion was, we think, due to the fact that the majority of the Court approached the question from a Common law standpoint and the learned Chief Justice from an Equity one.

The facts were as follows: In 1915 the plaintiff brought the action against the defendant alleging an agreement between the plaintiff and defendant by which the plaintiff was to be entitled to receive part of the proceeds to be derived from the sale of a patent. The plaintiff's share being alleged to be one-fifth of the receipts until the defendant should have received $1,500, and then the remainder of the receipts. The plaintiff alleged a sale had been made under which the defendant had received $1,500 and was to receive a royalty of $1.50 for each machine manufactured. At the trial in May, 1915, the plaintiff recovered a judgment for $150, with costs on the County Court scale; and the Court made a declaration that he was entitled to 20 per cent. of all royalties thereafter received by the defendant from the purchasing company after that company should be recouped for the advance payment of $1,500.