

prisonment, the Court was precluded from imposing any terms upon the party committed, except in relation to the keeper of the jail, who would be exempted from any civil action in respect of the imprisonment.

C. H. Cahan, for the judgment creditor.

F. F. Mathers, for the judgment debtor.

RITCHIE, J. }
In Chambers. }

PAYZANT v. LAWSON.

[April 14.]

Overholding tenant—Question of tenancy in dispute will not be determined summarily on affidavit—Costs.

Plaintiff held a mortgage on property in the city of Halifax, occupied by tenants of the defendant, among whom was C. The mortgage was foreclosed and the mortgaged premises were conveyed to plaintiff by sheriff's deed. Plaintiff thereupon demanded possession from C., who was not a party to the suit, of the portion of the premises occupied by him, which C. refused to give, and an application was made at Chambers, summarily, for an order requiring C. to give up possession. The motion was opposed by C., who stated on affidavit that he had become a tenant of plaintiff under an agreement entered into with plaintiff's agent, who was authorized by plaintiff for that purpose. The affidavit was supported by the production of receipt for two months' rent. Plaintiff admitted receipt of the rent, but replied that C. was allowed to go into possession on the understanding that he would go out whenever he was required to do so.

Held, that under these circumstances there was no jurisdiction to hear and determine the matter on affidavit in a summary way, but the procedure would be under the Act in relation to tenants overholding, or by action to recover the possession of the premises.

Order refused with costs.

J. A. Payzant, for plaintiff.

F. T. Congdon, for the tenant,

RITCHIE, J. }
In Chambers. }

WEATHERBE v. WHITNEY.

[April 14.]

Interrogatories as to information and belief—Where necessary to answer—Servants and agents—Striking out questions where irrelevant, etc.—Where questions are premature.

A party interrogated is bound to make enquiries, and to give his information and belief only in cases where the transactions enquired about are those of his servants and agents, and where he is interrogated as to such information and belief, and not where he is merely asked what he himself knows, 17 Q.B.D. 110.

A party interrogated can decline to answer and may move to strike out interrogatories as scandalous, irrelevant, oppressive, immaterial, or not put bona fide, but the onus of showing this is upon the party interrogated.