

RE SCHOOL SECTION 5 IN THE TOWNSHIP OF STEPHEN AND HILL—
LENNOX, J., IN CHAMBERS—OCT. 7.

Money in Court—Payment out.—Application by Simon Hill the younger for payment out to him of the money in Court. LENNOX, J., said that it would have been more satisfactory if it had been stated that the annuities to be paid to the wife of Simon Hill the elder, deceased, had been regularly paid; but enough had been stated to shew with practical certainty that the applicant was solely entitled to the money in Court. Order made directing that the money in Court, about \$142.12, be paid out to the applicant. G. Keogh, for the applicant.

VISOR KNITTING CO. v. PENMANS LIMITED (No. 2)—MASTER IN
CHAMBERS—OCT. 8.

Pleading—Action for Infringement of Patents for Inventions—Validity of Patents—Inconsistent Pleadings — Rule 157.—Motion by the plaintiffs for an order striking out the statement of defence except any part which denied that the articles manufactured by the defendants were similar to or amounted to an infringement of the plaintiffs' patent, on the ground that it was inconsistent with the previous pleading of the defendants, and as tending to embarrass the plaintiffs and prejudice the fair trial of the action. Rule 157 says: "A subsequent pleading shall not raise any new ground of claim or contain any allegation of fact inconsistent with the previous pleadings of the party pleading the same." The Master said that this Rule applied to pleadings in the same action; that is to say, that a plaintiff cannot in a subsequent pleading to his statement of claim plead any facts inconsistent with it, and that a defendant cannot plead any facts inconsistent with his statement of defence by a subsequent pleading. The Rule is intended to apply only to pleadings in the same action, or where a prior action has been prosecuted to judgment. In the first action brought by the plaintiffs against the defendants, they claimed an infringement of the Rottenburg patent, which the plaintiffs owned. In that action, the defendants pleaded that the Rottenburg patent was invalid; that Rottenburg was not the true inventor; that the invention was anticipated in various ways; that the Weinshenck patent was valid, and had priority over the Rottenburg patent; and that there had been prior grants of patents covering the invention claimed.