

which he might impose, he has no pecuniary interest in the fines, and so is not thereby disqualified.

*Semble*, that there was no disqualification here at common law.

*McCulloch*, for the plaintiff.

*Wilkes*, Q.C., *contra*.

Divisional Court.]

[Dec. 14, 1895.]

HOBSON *v.* SHANNON.

*Garnishee—New trial—Division Court Act, sec. 145.*

The provisions of section 145 of the Division Court Act as to a new trial, do not apply to a garnishee, so as to put him on the same footing as a plaintiff or defendant in an action.

*Re McLean v. McLeod*, 5 P.R., 467, followed.

*Re Tipling v. Cole*, 21 O.R., 276, distinguished.

*Raney*, for the appeal.

*Cartwright*, *contra*.

Divisional Court.]

[Dec. 14, 1895.]

MOUNTCASTLE *v.* NORWICH UNION.

*Insurance—Agent—Delegation of authority.*

C., defendant's local agent, and T. were in the habit of assisting each other in business, and had discussed entering into partnership, though none had been formed. On T. bringing a risk on a mill property to C., C. told T. that as he was better versed in this kind of property, then he (C.) was to inspect it himself, giving him a blank form of application and interim receipt, and telling him if he found the risk a good one, to take the insurance and issue the receipt in the names of C. and T. T. thereupon inspected the property, and being of the opinion that the risk was a good one, signed the receipt as suggested. Subsequently he informed C. of the circumstances, who thereupon wrote to the head office, enclosing the application, and advising the acceptance of the risk, and requesting the general agent, if the risk was not accepted, to wire him, but instead of doing so, the general agent wrote, but in the meantime the property was destroyed by fire.

*Held*, that C. had no power to delegate his authority, and therefore no liability was imposed on the company.

*Summer v. Commercial Union Ins. Co.*, 6 S.C.R. 19, followed.

The American authorities and *Rossiter v. Trafalgar Life Assurance Association*, 27 Beav. 377, remarked on as being opposed to this decision.

*T. J. Blain*, for the plaintiff.

*McKay*, *contra*.

Divisional Court.]

[Dec. 14, 1895.]

SHAVER *v.* COTTON.

*Company—Action against stock holders—Winding-up Acts.*

The plaintiff, on March 30th, 1892, recovered judgment against a company incorporated by letters patent under the Joint Stock Companies Letters Patent Act, upon which a fi. fa. goods was issued, and returned nulla bona, and on April 3rd a winding-up order was issued under R. S. O. c. 29, and