RUSSELL v. DAVIES.

Imp. O. 52, r. 1.—Ont. Rule 396.

Interim order for custody of property.

[W. N. 83, p. 109.

This action was brought to recover the arrears of a certain annuity. The plaintiff was in a state of destitution, and Bacon, V.C., made an interim order that the defendant should pay the arrears of the annuity, and continue to pay it until the trial or further order.

Held now, by Court of Appeal, the order could not be supported, it appearing on the evidence that the defendant had a *prima facie* case for insisting that the annuity had determined, and the plaintiff being wholly unable to repay anything if the decision should be against her at the trial.

FRASER v. COOPER HALL & CO.

Imp. O. 22, rr. 5, 6, 7.—Ont. Rules 164, 165, 166.

Counter-claim—Appearance by defendant to counter-claim.

[W. N. 83, p. —

A person not a party to an action, when made a defendant to a counter-claim, is not entitled to enter an appearance gratis, unless and until he has been regularly served with a copy of the defence; and if he appears without having been so served the appearance may be discharged on motion by the plaintiff in the counter-claim.

CHAPMAN v. BIGGS.

Imp. O. 45, r. 2.—Ont. Rule 370.

Attachment of separate property of married woman.

[L. R. 11 Q. B. D. 27.

Judgment having been signed in an action against the defendants, a man and his wife, it was sought to attach in execution moneys in the hands of trustees forming part of the income of trust funds payable to the wife to her separate use, which had accrued since the judgment. The will by which the trust was created contained a clause restraining anticipation by the wife. It appeared that the action was for the amount of a promissory note made by the husband and wife jointly during the coverture:—

Held, the moneys in question could not be attached in execution.

Per W. WILLIAMS, J.—It seems to me that, if this form of execution could be obtained under the circumstances of this case, the restraint on anticipation could always be evaded.

IN RE MASON, TURNER v. MASON.

Imp. O. 16, r. 14—Ont. Rule 103.

Leave to amend after judgment.

[W. N. 83, p. 134, ib. p. 147.

In this case leave was given by CHITTY J. to amend the writ and statement of claim by adding a party defendant to the action after judgment and issue of the Chief Clerk's certificate; but subsequently this order was discharged by the same judge, he considering it doubtful whether the court had power to make an order where the proposed new defendant did not appear upon the application, and consent to being added as a party.

KNIGHT v. GARDNER.

Imp. O. 38, r. 4.—Ont. Rule 304.

Affidavit—Cross-examination on.

[W. N. 83, p. 152.

The party producing deponents for cross-examination upon their affidavits made in proceedings before the Chief Clerk in Chambers, and not the party requiring such defendants to attend for the purpose of being cross-examined, is liable in the first instance for the expenses of their attendance.

THE NORTH LONDON RAILWAY CO. v. THE GREAT NORTHERN RAILWAY CO.

Imp. J. A. s. 25, subs. 8—Ont. J. A. s. 17, subs. 8.

Injunction—Jurisdiction.

[L. R. 11, Q. B. D. 35.

The above section has not given power to a judge of the High Court to issue an injunction in a case where no court before the Judicature Act could have given any remedy whatever.

Per BRETT, L. J.—I personally have a very strong opinion that the Judicature Act has not dealt with jurisdiction at all, but only with procedure . . . Individually I should be inclined to hold that if no Court had the power of issuing an injunction before the Judicature Act,