

deceased person it is sufficient if his evidence is corroborated, *i.e.*, strengthened, by evidence which appreciably helps the judicial mind to believe one or more of the material statements or facts deposed to. It is not necessary that the case should be wholly proved by independent testimony.

Parker v. Parker, 32 C.P. 127, approved.

The production by the plaintiff, an architect claiming payment for his services in drawing plans and making estimates for the erection of a house, of a memorandum in the deceased's handwriting, showing the rooms and accommodation required and the suggested cost, held (BURTON, J.A., dissenting) sufficient corroboration of the plaintiff's evidence.

Judgment of the County Court of York affirmed.

George Bell for the appellant.

P. H. Drayton for the respondent.

HIGH COURT OF JUSTICE.

Queen's Bench Division.

Div'l Ct.]

[Dec. 31.]

CARTER *v.* STONE.

Assignment for benefit of creditors—Priority over executions—Purchase money of land sold under mortgage judgment—R.S.O., c. 124 s. 9.

On April 8th, 1890, the plaintiff obtained a judgment for sale of lands by the court to realize the amount of his mortgage and a judgment against the owner of the equity of redemption. On 24th April, 1890, execution creditors of the owner of the equity were made parties in the Master's office. On the 17th May, 1890, the lands were sold. On 9th June, 1890, before the purchase money fell due and before any of the parties had established their claims to it, the owner of the equity of redemption made an assignment for the benefit of his creditors.

Held, that by R.S.O., c. 124, s. 9, the assignee was given precedence as to the purchase money over the executions; in other words, the purchase money passed to him discharged by the statute of any liability to satisfy the executions out of it.

E. T. Malone for the execution creditors.

James Reeve, Q.C., for the assignee.

Div'l Ct.]

[Dec. 31.]

IN RE FIELD *v.* RICE.

Prohibition—Division Court—Garnishee suit—Money handed by prisoner to constable—Question of fact.

The defendant was arrested, and when taken to the police station handed over the money in his possession to a constable. Creditors of the defendant sought to garnishee this money by Division Court suits. The judge in the Division Court found that the money was handed over voluntarily and held that it could be garnished.

Held, that the question whether the garnishee was indebted to the defendant was a question of fact within the jurisdiction of the inferior court, and that prohibition did not lie.

DuVernet for the defendant.

S. A. Jones for the plaintiffs.

Chancery Division.

BOYD, C.]

[Dec. 5.]

SMITH *v.* BENTON.

Canada Temperance Act—Action for liquors sold for use in a county where the Canada Temperance Act was in force—Right to recover—Distinction between those sold before and after a successful vote for the repeal of the Act.

In an action for the price of certain liquors sold for use in a county where the Canada Temperance Act was in force,

Held, following *Pearce v. Brooks*, L.R. 1 Ex., at p. 217, that any person who contributes to the performance of an illegal act by supplying a thing with the knowledge that it is going to be used for that purpose cannot recover the price of the thing so supplied, and that the plaintiff could not recover. But

Held, also, that a distinction should be drawn between the liquors sold before the successful vote for the repeal of the Act and between the vote and the revocation of the Order-in-Council bringing the Act into force. The latter were in contemplation of the lawful traffic thereafter expected, and the inference from the facts should not be against the legality of the dealings at this point between the parties, and that the plaintiff was entitled to succeed as to them.

Charles Macdonald for the plaintiff.

N. Mills for the defendant.