

charge there was a trial on the merits and that such a person was to be deemed guilty of the offence of keeping a house of ill fame.

*Robinette and J. M. Godfrey*, for motion. *Cartwright* Q.C., Deputy Atty.-Gen., contra.

Boyd, C., Ferguson, J., Robertson, J.]

[Dec. 18, 1900.

SNETZIGER v. LEITCH.

*Lease — Use of hay, etc., on the premises by feeding — Right of landlord as against execution creditor of tenant.*

Plaintiff leased a farm as a dairy farm and thirteen cows by lease in writing in which was contained the following clause: "All the hay, straw and corn stalks raised on the . . . farm to be fed to the said cows on the said . . . farm."

*Held*, that while the property in hay produced on the farm may be legally in the tenant, yet his contract is so to use it that it shall be fed to the cattle and consumed on the premises, he is not to have the beneficial use of it, and cannot by his contract take it off the farm, and his judgment or execution creditor has not such power under cover of an execution; and an injunction restraining a bailiff and purchaser at a bailiffs' sale from removing it was granted.

Judgment of the County Court from the united Counties of Cornwall, Dundas and Glengarry reversed.

*Robert Smith*, for plaintiff. *Leitch*, Q.C., for defendant *Leitch*. *Gogo*, for other defendants.

Falconbridge, C.J., Street, J.]

[Jan. 2.

RE LENTED v. CONGDON.

CANADIAN ORDER OF CHOSEN FRIENDS, GARNISHEES.

*Division Court—Garnishee—No garnishable debt—Jurisdiction—Friendly garnishee—Conferring jurisdiction—Costs.*

Where an action is entered under s. 190 of the Division Courts Act, in the Division where the garnishee resides, the primary debtor residing in another and disputing the jurisdiction of the Court—there is jurisdiction to give judgment against the primary debtor even where the action is dismissed as against the garnishee.

*Semble*, if a primary creditor for the purpose of obtaining a judgment against the primary debtor in a Court of his own choosing, names a friend as garnishee the judge might properly take that into consideration under his power over costs under s. 213 of R.S.O. c. 60.

Judgment of the First Division Court of Wentworth reversed.

*Nason*, for the appeal. *James Bicknell*, contra.