

## COMMON LAW CHAMBERS.

Cameron, J.]

EVANS v. SUTTON.

*Division Court—Prohibition—Jurisdiction—Proof of claim.*

The plaintiff residing within the limits of the Ninth Division Court of Wentworth sued, in that Court, the defendant who resided in St. Catharines, for a cause of action which partly arose in St. Catharines. The defendant put in a notice of defence disputing the claim and the jurisdiction of the Court. At the trial the defendant did not appear, and the Division Court judge gave judgment for the plaintiff for the full amount, without requiring any proof of the claim.

*Held*, that a prohibition should issue, and that the plaintiff should pay the costs.

*Held*, also, that the Division Court judge should have required the plaintiff to prove his claim.

Cameron, J.]

Dec., 1880.

PECK v. SHIELDS.

*Pleading—Insolvency.*

Declaration:—1. The common counts; 2. That the defendants were guilty of fraud within the meaning of the Insolvent Act of 1875, in that they purchased goods knowing themselves to be insolvent; "and the plaintiffs claim four thousand dollars." Pleas:—(to first count) 1. Never indebted; 2. A deed of composition and discharge signed by a majority of the creditors and three-fourths in value; 3. (to second count) Not guilty; 4. That defendant did not purchase on credit as alleged; 5. That the said contract was not made in Canada; 6. (—to the whole declaration)—That before suit the plaintiffs released the defendant, by deed.

*Held*, on an application to strike out the pleas, that they were good.

Leave given to the plaintiffs to reply fraud to the second plea.

*Rose*, for plaintiff.

*Aylesworth*, for defendant.

Wilson, C. J.]

REGINA v. CLENNAN.

*Certiorari—Conviction—32-33 Vict. ch. 31, sec. 25 D.*

The defendant was convicted before a magistrate for that he did, in or about the month of June, 1880, on various occasions, knowingly and fraudulently, sell and supply to M. W., the possessor of a cheese factory, a large quantity of milk from which the cream had been taken, for the purpose of being manufactured into cheese contrary to the statute, and a fine was inflicted "for his said offence."

*Held*, that the conviction was bad under 32-33 Vict., ch. 21, sec. 25, D., as showing the commission of more than one offence.

RE F. &amp; J., ATTORNEYS.

Wilson, C. J.]

[Oct. 29, 1880.]

*Ejectment by mortgagee—Costs.*

L, being the holder of a mortgage upon which an instalment of interest was due, instructed his attorney "to take legal proceedings on the securities unless the interest was paid on the 12th April." The mortgagor called on the 12th April, and told the attorneys that he intended shortly to pay off the mortgage, and hoped no costs would be incurred. On the 15th April the attorneys issued a writ of ejectment and notice of sale, and served them on the mortgagor on 23rd April, when he called to pay off the mortgage. They also refused to take the principal money.

*Held*, that the attorneys were entitled to the costs of the ejectment suit, but to no other costs whatever.

*Crickmore*, for attorneys.

*Aylesworth*, for mortgagor.

Cameron, J.]

[Nov. 6, 1880.]

PATULLO, *et al.*, v. CHURCH.*Attorney and client—Costs—Taxation.*

Where a client applies for taxation of an attorney's bill after the expiration of a year from its delivery, he should show such circumstances as would have justified a reasonable man in refraining from seeking such taxation, or that he was prevented by some unreasonable cause. Where judgment had been signed against the client in an action on the bill during the pendency of negotiations for a settlement, this was