

Prac.]

NOTES OF CANADIAN CASES—CORRESPONDENCE.

timber for building, as well as for the mere proper purposes of a sash factory, did not increase the risk in such a way as to avoid the policy under the above condition.

W. Cassels, for the plaintiff.

Martin, Q.C., for the defendants.

PRACTICE.

Proudfoot, J.]

[June 21.]

JOHNSON V. BENNETT.

Equitable execution.

Motion for judgment. Plaintiff claims a debt of \$200 from the defendant. Defendant did not appear to the writ. The only property the defendant owned was the equity of redemption in certain lands, on which there were two mortgages, one held by the plaintiff, the other outstanding in other hands. Plaintiff now asked for judgment for \$200 and interest, and for a decree for sale of the equity of redemption.

Held, on authority of *Carr v. Styles*, 26 Gr. 309, plaintiff could have judgment as asked, notwithstanding that in this case there were no *fi. fas.* in the sheriff's hands.

W. Cassels for the motion.

Master in Chambers.]

[June 28.]

PECK V. PECK.

Interim alimony, time to make application for
Chy. G. O. 489.

An application for interim alimony should not be made till the statement of defence is filed, or till the time for filing it has expired. *Chy. G. O. 489* is unrepealed and applies by analogy to statements of defence.

In an action for alimony

G. M. Evans, for the plaintiff, moved for an order for payment by the defendant to the plaintiff of \$16 a month as and for interim alimony.

N. W. Hoyles, for the defendant, contended that as the statement of claim was not filed no defence had been filed, and this application was prematurely made. He referred to *Chy. G. O. 489*.

THE MASTER IN CHAMBERS held that the application was prematurely made, as *Chy. G. O. 489* is still in force, and now applies by analogy to the filing of the statement of defence. Motion dismissed without costs.

CORRESPONDENCE.

Constitutional Law - The Thrasher Case.

To the Editor of the LAW JOURNAL.

The letters which have appeared in your columns, in reply to my communication of 1st May, respecting the *Thrasher Case*, may seem to some of your readers to require a rejoinder from myself.

But it is with great reluctance that I again recur to this subject. I deem it quite undesirable to intrude personalities upon the public, and had therefore determined to refrain from any notice of the acrimonious letter signed "One of your Readers." But the subsequent letter from "An Exile," which took similar ground of objection to the views I had ventured to propound upon this vexed question, seemed to call for some remarks in explanation. This letter was written with the calmness and dignity befitting the discussion of such a weighty matter, and was, moreover, enriched by much interesting information, evidently from an authentic source, in regard to the framing of the British North America Act. The tone of the contribution from "One of your Readers," on the contrary, was not calculated to encourage a frank and courteous interchange of thought upon a difficult constitutional question. The writer is apparently impressed with the idea that it is great presumption for a layman to criticise a judicial utterance, and that any adverse opinions from such a quarter must necessarily be crude, unsound and unworthy of attention.

But inasmuch as my life-long studies have led me to devote much earnest and careful consideration to the Imperial statute which forms the basis of our present constitution, as well as to all the judicial interpretations of its various sections which have emanated from the Bench, whether of Canada or of the mother country, I may, perhaps, be permitted to state the conclusions at which I have arrived, upon any question arising out of this famous enactment, without being justly charged with dogmatism or impertinence.

My observations upon the judgment in the *Thrasher Case* were confined to the simple point as to whether "the Supreme Court of British Columbia is not within the description of those Courts in which alone procedure is controllable by the Local Legislature,"—"and therefore, by