

Ct. Ap.]

NOTES OF CANADIAN CASES.

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COURT OF APPEAL.

Leeds and Grenville.] [September 29.

RAYMOND V. SCHOOL TRUSTEES OF THE
VILLAGE OF CARDINAL.

School trustee—Right to dismiss teacher.

The right of public school trustees to dismiss a teacher hired by them, necessarily arises from the relation of the parties. 49 Vict. ch. 49, ss. 165-168, provides a proceeding by which the status or qualification of the teacher may be determined; and the result of such proceeding may be in effect the same as dismissal; but this enactment does not take away the inherent right of employers to dismiss.

Knapp, for appeal.

Shepley, contra.

C. C. Wentworth.] [September 29.

ROSS V. HAENEL.

Interpleader—Refusal to interfere with verdict.

Goods seized under an execution were claimed by the father-in-law of the execution debtor, under a chattel mortgage, and an issue was directed to be tried between the claimant and the execution creditors. At the trial no witnesses were examined, except the claimant and the execution debtor, and although they swore to the *bona fides* of the claim, the verdict and judgment of the court below were for the execution creditor.

This court refused to interfere.

F. Fitzgerald, for the appeal.

Osler (Hamilton), contra.

C. C. Grey.]

[September 29.

MITCHELL V. VANDUSEN.

Costs—Discretion of judge in ordering and apportionment.

An action by the bailiff of one Division Court against the bailiff of another Division Court, to recover the proceeds of goods seized and sold by the latter under an execution against B., which, at the time of such seizure and sale, were under seizure, and had been advertised for sale by the plaintiff under executions which he also held against B. The action was tried without a jury by the judge of a County Court, who held that the plaintiff was entitled to recover, but deprived him of his costs and ordered that the defendant's costs of the action, and the costs of the seizure and sale of the goods should be deducted from the amount of the judgment.

The plaintiff having, by leave of the judge, appealed from the discretion exercised in the disposition of the costs, this court reversed the decision, and ordered the defendant to pay the plaintiff's costs.

HAGARTY, C.J.O., reversed his opinion as to the existence of any right in any judge to make a defendant pay the costs of a plaintiff who has failed to establish a right to recover, or to make a plaintiff who has substantially proved his right to recover, pay the costs of the defendant.

Per PATTERSON, J. A.—Rule 428 gives full discretion over the apportionment of costs, and in proper cases to deprive the successful party of costs, but does not extend to make any party, whether plaintiff or defendant, who is wholly successful in his action or defence, pay the costs of his defeated opponent.

Per OSLER, J. A.—The jurisdiction in question is one which does exist, though the circumstances in which it has been exercised are of a very special and unusual character.

Crescor, Q.C., for the appeal.

George Kerr, contra.