

Court, in case of the receiver, has relieved him from paying in the whole of a very large sum found to be in his hands, recognizing the fact that he may be entitled to a share thereof and to remuneration, none is to be found where he has been permitted to discharge himself by setting up claims which, had they been put forward in the first instance, would in all probability have prevented his appointment: *Re Bell's Estate*, L.R. 9 Eq. 172. Besides, the receiver's letter of Nov. 12th, 1895, furnished a complete answer to his application for relief, showing as it did, especially when taken in connection with the fact that he was not prepared on Dec 10th to set up the grounds now relied on, that these grounds were a mere afterthought.

Semble, that a specific order to pay over the balance is the proper course in the first instance.

Judgment of FALCONBRIDGE, J., affirmed.

W. R. Smyth, for appellant. *Bradford*, for respondent.

HIGH COURT OF JUSTICE.

Robertson, J.]

SAWYER v. PARKIN.

[Oct. 26, 1897.

Division Courts—Jurisdiction—Agreement for sale of machine—Ascertainment of amount claimed.

Under a written agreement for the sale of a machine, signed by the defendant, he was to send to the plaintiffs, within ten days after the machine was started, a promissory note, with approved security, for \$125, the price thereof, and in default the price was to become forthwith due and payable. The machine, which was by the agreement to be delivered by the plaintiffs f.o.b cars addressed to the defendant to an outside railway station, was received by him and shortly after returned to plaintiffs.

Held, that there was no jurisdiction in the Division Court to entertain an action for the price of the machine, as the amount was not "ascertained by the signature of the defendant" under s. 70, s.-s. (O) of R.S.O. (1887) c. 51, for in addition to proof of the signature, evidence was necessary to show that the terms of the agreement had been performed by the plaintiffs.

Kirwin Martin, for plaintiffs. *D. L. Walsh*, for defendant.

Boyd, C.]

HUYCK v. WILSON.

[Jan. 13,

Arbitration—Action to enforce award—Publication—Time for moving against award—Interest—Costs of arbitration—Taxation—Judgment—Writ of summons—Special indorsements.

Action upon an award. Appeal by the plaintiff from an order of the local Judge at Picton setting aside his own ex parte order allowing the plaintiff to enter judgment upon a writ of summons specially indorsed in default of appearance, and setting aside the judgment entered pursuant thereto and execution issued upon such judgment.