

offered to suffer judgment; that he was absolutely unprepared to make defence to the additional claim, and that great injustice would be done to defendant if the amendment were allowed, and defendant forced to go to trial at the circuit then being held. Defendant also made affidavit that he could not safely enter upon his defence to the additional claim without the evidence of one whose attendance he could not procure for two or three days. The judge allowed the amendment, but waited for the witness referred to and then proceeded, when the jury found for the plaintiff.

Held, on motion for new trial, Barker and McLeod, JJ., dissenting, that the amendment should not have been allowed under the circumstances without postponement of trial till next circuit. New trial ordered.

M. G. Teed, for plaintiff. *H. A. Powell*, Q.C., for defendant.

En Banc.] EX PARTE VANWART. [Feb. 9.
Judgment debtor—Ex parte order for examination—Judge of Supreme Court—Privilege.

Held, Tuck, C.J., dissenting, that an order for examination of a judgment debtor under s. 36 of 59 Vict., c. 28, should not be made ex parte.

Held, also, per Tuck, C.J., Landry and Barker, JJ., Hannington J., dissenting, that a Judge of the Supreme Court is not privileged from examination as a judgment debtor under said Act. Rule absolute for certiorari to remove order for examination.

A. H. Hannington, Q.C., and *W. Pugsley*, Q.C., in support of rule. *G. F. Gregory*, Q.C., contra.

En Banc.] STEWART v. CANADIAN PACIFIC RAILWAY CO. [Feb. 9.
Writ—Wrong name for that of plaintiff in conclusion—Amendment.

An attorney's clerk in preparing a county writ, inserted a wrong name for that of the plaintiff in the conclusion of the writ. The defendant did not appear and the plaintiff signed interlocutory judgment. An application was afterwards made to the County Court Judge to set aside the writ and interlocutory judgment. The plaintiff asked for leave to amend. The judge, however, held that the writ was a nullity, refused the application for leave to amend, and set aside all the proceedings.

Held, on appeal, that the County Court Judge was wrong in treating the writ as a nullity, and should have granted the leave to amend.

Thos. Lawson, for appellant. *A. B. Connell*, Q.C., for contra.

En Banc.] EX PARTE JONES. [Feb. 9.
Costs of appeal—Execution against corporation—Leave to issue.

Held, that it is not necessary to apply for leave to issue execution against a corporation for costs of appeal to the Supreme Court of Canada.

L. A. Curry, Q.C., for applicant.