

to the Society justifies his removal: and the conduct which unfits a man to be a solicitor should *a fortiori* preclude his being a barrister. The plaintiff, according to his own statements before the Committee, was acting as a solicitor in the transactions complained of; and the objection that he was not engaged in that capacity, or in the capacity of barrister, failed.

5. The fact that the plaintiff, prior to the resolution of the Benchers, had made restitution to the complainant, did not oust the jurisdiction to discipline.

Certain minor objections to the proceedings were also overruled and the action dismissed by the trial Judge.

*Held*, however, by the Queen's Bench Divisional Court, on appeal, FALCONBRIDGE, J., dissenting: 1. That the report of the Discipline Committee and the proceedings of Convocation founded upon it were irregular because of the failure to notify the Treasurer of the meetings and to notify the members generally of the particular business for which they were called together; and as the form of the notice was not known to the plaintiff he could not be taken to have waived any right to object.

2. That by the provisions of R.S.O. c. 145, s. 36, the Legislature intended that the evidence in inquiries such as the one in question should be taken upon oath; and it was not intended not to confer upon the defendants a discretion to take it upon oath or without oath as they should think proper; and they could not by arrangement between themselves and plaintiff, adopt a different mode of obtaining the facts than that which the Legislature prescribed in conferring their authority upon them.

Upon the grounds therefore of irregularity in calling the Committee together, and illegality in not taking the evidence under oath, the Court reversed the decision of Boyd, C., and gave judgment for the plaintiff.

C. J. Holman, for the plaintiff.

W. A. Reeve, Q. C., and Walter Read, for the defendants.

STREET, J.]

[Jan. 15.]

ANDERSON v. GLASS.

*Bankruptcy and insolvency—Assignment for benefit of creditors—Assignee not a sheriff—Requisite number of creditors not assenting—*

R.S.O. c. 124, s. 3, ss. 2, construction of—*Chattel mortgage—Jus tertii—Costs.*

The meaning of R.S.O. c. 124, s. 3, ss. 2, is that an assignment executed without the consent of the requisite number of creditors shall have the same effect as if it had been executed with such consent until and unless it be superseded by an assignment executed with such consent; and the words which occur through the Act, "an assignment for the general benefit of creditors under this Act," are to be governed by this construction.

*Held*, therefore, that a sheriff who had seized goods of insolvent debtors under execution was not justified in refusing to give them up to the debtors' assignee, who was not a sheriff, and the assignment to whom had not been assented to by the number of creditors required by R.S.O. c. 124, s. 3; but

*Held*, that as the goods were covered by a chattel mortgage, the sheriff could set up the rights of the mortgagee in answer to an action by the assignee to restrain the sale of the goods under the execution.

The assignee having failed in the action, because the mortgagee's rights disentitled him to succeed; and the sheriff having contested the assignee's rights on the other ground, which was declared to be untenable, no costs were given to either party.

Q.B. Div'l Court.]

[Feb 4.]

COUSINEAU v. CITY OF LONDON FIRE INSURANCE CO.

*Costs—Taxation—Lapse of appointment and taxation—Long vacation—Notice of taxation—Revision—Fund in Court—Rule 1207.*

The plaintiff's costs were being taxed by one of the taxing officers at Toronto, when he applied to stop the taxation in order that he might have the order for taxation varied. The taxation was stopped, the officer gave up to the plaintiff the bill of costs, which he had brought in for taxation, and nothing further was done.

*Held*, that the effect of this was that the appointment to tax and the taxation lapsed, and no further proceedings could have been had without a fresh appointment; and therefore the taxing officer was not thereafter seized of the taxation, and the local Registrar in whose office the action had been begun