

Chan. Div.]

NOTES OF CANADIAN CASES.—CORRESPONDENCE.

[Prac. Cases.]

dex thereof for the purpose of making a search, as the book containing such abstract is one of those which the Registrar is bound to exhibit under the Registry Act.

McLay, in person.

Clement, contra.

MARTIN V. MCALPINE.

Cognovit—Collusion—Remedy against creditor.

The plaintiff was suing one F., an insolvent, when the defendant, also a creditor, applied to him in order to induce him to execute a confession of judgment, the defendant promising to give him time, whereupon F. signed the confession, by which the defendant obtained priority over the plaintiff, and both parties placed writs of execution in the hands of the sheriff, who sold under the defendant's writ, the defendant becoming the purchaser of part of the goods, the price of which he retained and received the balance from the sheriff.

Held, reversing the judgment of the Court below, that the confession was void under R.S.O. ch. 118, sec. 1, and that the price for which the goods were sold was properly applicable to the plaintiff's writ. An order was accordingly made directing the defendant to pay the amount to the plaintiff.

Moss, Q.C., and Martin, for appeal.

S. H. Blake, contra.

CHANCERY DIVISION.

Full Court.]

GILROY V. McMULLAN.

[Sept. 7.]

Lease—Parol agreement.

The plaintiff sought to restrain the defendant from cutting timber on lands demised to him, contrary to the covenants in the indenture of lease.

At the hearing the defendant tendered parol evidence of an agreement between himself and the plaintiff, distinct from and prior to the lease, which, he contended, modified the restrictions in the lease, and gave him the right to cut the timber.

Held, (affirming FERGUSON, J.,) the evidence of the parol bargain could not be admitted.

Mason v. Scott, 22 Gr. 592 followed.

B. B. Osler, Q.C., for the defendant.

S. H. Blake, Q.C., for the plaintiff.

PRACTICE CASES.

Cameron, J.]

[Aug. 28.]

Writ of attachment—Debt not due—What may be considered an application to set aside.

Motion to set aside a writ of attachment against an absconding debtor. Goods were sold to the defendant upon a five months credit. The defendant refused to accept a bill of exchange for the price of the goods at five months, and the plaintiff issued a writ of attachment before the expiration of the five months.

Held, that there was no debt due at the time when the writ issued.

Held, that the existence of a debt sworn to may be questioned on such an application as the present.

Writ of attachment set aside.

Aylesworth, for the defendant.

J. H. Macdonald, for the plaintiff.

CORRESPONDENCE.

To the Editor of the LAW JOURNAL.

SIR,—At the close of this year the Inc. Council of Law Reporting for England issued a triennial digest for the three years subsequent to the digest last issued by them.

Could not our Law Society give us at the end of this year a digest of the cases reported since Robinson and Joseph's digest and down to the end of 1883, and then follow the English plan of issuing a digest every three years. It would be a great boon to the profession.

Yours, &c.,

BARRISTER.

[The Law Society have instructed Mr. Robinson, the editor of the reports, to prepare a triennial digest, which will be issued by the beginning of January, just three years since the publication of Robinson and Joseph's digest. It will be presented to the profession with the reports. Mr. Robinson has secured the valuable services of Mr. Joseph in the preparation of the digest.—EDS. L. J.]