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CARTWRIGHT, MASTER. FEBRUARY 27TH, 1905.

CHAMBERS.

INNES v. HUTCHEON.

*Replevin—Sale of Goods Replevied—Rules 1097, 1098.*

On 23rd January a replevin order was granted in this action. Under this there were delivered to plaintiff six imported horses of considerable value. To obtain the order plaintiff paid into Court \$2,000.

The plaintiff occupied the same position under the Scottish law in regard to defendant as an assignee in bankruptcy would occupy in England.

The horses were at livery at a cost to plaintiff of over \$5 a day.

If the action were fought out, it would be necessary to procure evidence from Scotland; no trial was therefore to be expected before the autumn sitting.

In these circumstances plaintiff applied under Rules 1097, 1098, for an order for the sale of the horses.

G. L. Smith, for plaintiff.

W. A. Lamport, for defendant.

THE MASTER.—There can be no doubt under the facts that it is a proper case for the order asked for, if there is power to make it.

In Holmsted & Langton, at p. 1218, certain cases are cited on Rule 1097. None of these is similar to the present.