

then the assignee of the judgment, returned the notes to defendant and applied for leave to issue execution.

*Held*, that H. could not take advantage of defendant's mistake, that the note had been taken in satisfaction of the judgment, and that execution should be refused, but that an assignee of the judgment without notice might have execution.

TOWNSHEND, J., }  
In Chambers.

[May 1.

MCDONALD v. CURRY ; THOMPSON, THIRD PARTY.

*Amendment—Adding statutory plea to defence—Indorsement of memo. of fees by sheriff on return of execution.*

The third party having obtained judgment against N., placed an execution in the hands of the defendant, the sheriff of Hants County, who took charge of certain property of N. thereunder, and employed plaintiff to look after same.

Plaintiff sued and recovered judgment against defendant for his wages as caretaker. Defendant thereupon claimed over against third party. Third party now moved to amend his defence by adding a plea that defendant in returning the execution omitted to endorse thereon a memo. of his fees and charges, in accordance with the statutory provision, which would include plaintiff's wages as caretaker, in accordance with the statutory provision.

*Held*, that the third party might so amend, but upon the terms that defendant should have ten days in which to amend the return upon the execution, in order that the statute might be complied with.

*W. B. A. Ritchie*, for third party.

*McInnes*, for defendant.

TOWNSHEND, J., }  
In Chambers.

[May 22.

QUEEN v. WHEELER.

*Trial for murder—Change of venue—Adverse comments of local newspapers.*

Defendant being under arrest and awaiting trial at Digby, in the County of Digby, for murder of A. K., his counsel now moved to change the place of trial. Numerous affidavits were read showing great popular prejudice existing at Digby against prisoner, making it unlikely that he would obtain a fair trial there. To these were exhibited various local newspapers, containing comments on the murder adverse to the prisoner. Affidavits directly contradicting these were read by the Crown.

*Held*, that while the affidavits from their contradictory character necessarily left a doubt as to the true state of feeling existing in the county towards the prisoner, the evidence furnished by the newspapers annexed could not be disregarded ; that it would be impossible to obtain an untainted jury, when the feelings of the community whence the jury must be taken had been so excited