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HIGH COURT OF JUSTICE.

Master in Chambers.] HALL v. BOWERMAN.

[July 5.

*Interpleader—Writ of possession—Interference with execution—Claim to land.*

Upon an attempt to execute a writ of possession under a judgment against G., who was in actual possession, the sheriff was served with a notice by B. claiming the land mentioned in the writ, and informed the sheriff that the house standing thereon was locked and that he (B.) had the key. B.'s claim was as mortgagee upon default in payment of interest.

*Semble*, that the sheriff's duty, as soon as he received the writ, was to break open the door and give the plaintiff possession. But

*Held*, that, as the sheriff was not bound to consider the legality of the claim put forward, he was entitled to an interpleader order.

R. J. MacLennan, for sheriff. E. D. Armour, Q.C., for plaintiff. G. W. Holmes, for defendant.

Street, J.]

IN RE HOPKINS' ESTATE.

[Oct. 11.

*Devolution of Estates Act—Payment of debts—Distinction between real and personal property—R.S.O. c. 127.*

The Devolution of Estates Act, R.S.O. c. 127, vests the real as well as the personal estates of a deceased person in his personal representatives for the purpose of paying his debts; but, except in the case of a residuary devise of real and personal estate, which is especially provided for by section 7, the order in which the different classes of property were applicable to the payment of debts before the passing of the Act, has not been disturbed by its provisions.

W. M. Douglas, Q.C., for executors. Gibbons, Q.C., Ferguson, and Middleton, for other parties.

Ferguson, J.]

REGINA v. RANDOLPH.

[Oct. 31.

*Criminal law—Theft—Summary trial—Excessive penalty—Amendment—Discharge—Further detention—Criminal Code, ss. 752, 783, 787, 800.*

The defendant was prosecuted for stealing \$5 in money, the property of one J. M., contrary to the form of the statute, etc., and the charge was heard and determined in a summary way by a police magistrate.

*Held*, that the prosecution fell under s. 783 (a) of the Criminal Code, the value of the property being less than \$10, and it not being charged that the offence was "stealing from the person;" and, therefore, s. 787 applied,