

capacity of a public officer, and so entitled to security for costs under s. 7 of the Law Courts Act, 1896; and if the pleadings are of such a character that the case cannot on them go to the jury against the defendant as a public officer, he cannot claim the protection of the statute, even where he shows by affidavits that his sole connection with the matters alleged against him was in his public capacity.

C. J. Holman, for the plaintiff.

R. McKay, for the defendant Northmore.

ARMOUR, C.J., }
FALCONBRIDGE, J. }

[Jan. 16.]

MCVEAIN v. RIDLER.

Arrest—Discharge—Order for—County Court—Appeal—Divisional Court—Rule 1051—Intent to quit Ontario—Intent to defraud creditors.

Upon an appeal by the plaintiff from an order of the Judge of a County Court, in an action in that Court, discharging the defendant from the custody of his bail, it was objected by the defendant that the order was not a final one, and that no appeal lay.

Held, that the Court had, by Rule 1051, jurisdiction to discharge or vary the order, as explained in *Elliott v. McCuaig*, 13 P.R. 416.

Held also upon the evidence, that the defendant should not have been discharged from custody.

Tooth v. Frederick, 14 P.R. 287, not followed, having been practically overruled by *Coffey v. Scane*, 22 A.R. 269.

D. R. McLean, for the plaintiff.

John MacGregor, and T. E. Williams, for the defendant.

ARMOUR, C.J., FALCONBRIDGE, J., }
STREET, J. }

[Jan. 18.]

GRANT v. COOK.

Judgment debtor—Examination—Right to issue appointment for.

A judgment creditor is prima facie entitled to issue an appointment for the examination of his judgment debtor; and upon a motion to commit the latter for refusal to be sworn, it is for him to show affirmatively that the issue of the appointment was an abuse of the process of the Court.

Tremear, for the plaintiff.

J. J. Warren, for the defendant.

BOYD, C.]

IN RE McDONALD v. DOWDALL.

[Jan. 25.]

Prohibition—Division Court—Interest—Splitting demand—R.S.O., c. 51, s. 77.

Where the plaintiff sued in a Division Court for \$100 interest upon moneys deposited with the defendants, and it appeared that she had treated the deposit receipt in her hands as one upon which the whole sum was past due and collectable.