BOYD, C.] [Oct. 28.

CRABBE *v.* HICKSON.

Discovery—Particulars—Action for wrongful dismissal—Defence of misconduct.

In an action for wrongful dismissal, where the defence is misconduct generally, it is proper to direct particulars showing the nature and character of the instances relied on by the employer; these particulars should set forth the dates, substantial particulars, and circumstances of all the instances and occasions wherein and whereon the plaintiff misconducted himself, on which the defendant means to rely; and leave should be given to supplement with further particulars if discovered before trial.

E. D. Armour, Q.C., for the plaintiff.

W. R. Smyth for the defendants.

BOYD, C.] [Oct. 22.

IN RE SOLICITORS.

Solicitor and client—Taxation of bill of costs by assignee for creditors of client—Cost of taxation—Assignee personally entitled—Set-off.

The parties who initiate and intervene upon the taxation of a solicitor's bill of costs become personally liable to pay the costs of taxation.

And where solicitors rendered to the assignee of an insolvent their bill for services to the insolvent, and the assignee taxed the bill and had it reduced by more than one-sixth,

Held, that he had a right personally to recover from the solicitors the costs of the taxation, and that there should be no set-off against the amount coming to the solicitors from the estate of the insolvent as a dividend upon their bill.

Where authorities acted upon were not cited, no costs were given.

Delamere, Q.C., for the solicitors.

Aylesworth, Q.C., for the assignee.

BOYD, C.] [Oct. 28.

HALL *v.* HOGG.

Costs—Mechanics' lien action—Parties—Attacking status of lien-holders—Costs of owner—Costs of lien-holders—Scale of costs.

In an action by lien-holders to enforce their lien under the Mechanics' Lien Act it is not necessary to make other holders of registered liens parties in the first instance in order to attack their status as lien-holders; but this can be done where they are added as defendants in the Master's office.

The amount due from the owner to the contractor should be paid into court by the latter less his costs, which should be taxed as to a stakeholder watching the case.

The costs of lien-holders establishing their liens should be paid as a first charge on the fund.

The costs of lien-holders subsequent to judgment of reference should be taxed upon the scale appropriate to the amount found due to each.

J. A. Macdonald for the plaintiffs.

A. Hoskin, Q.C., for the defendant Fewtrell.

C. W. Kerr, for the defendant Howland.

C. Henderson, for the defendant Radcliff.

BOYD, C.] [Oct. 22.

CLARKE *v.* CREIGHTON.

Costs—Execution for—Rule 863—"Immediately"—Set-off—Rule 1205—"Interlocutory"—Costs after judgment—Solicitor's lien—Divisions of Court—Entitling papers—Amendment.

The word "immediately" in Rule 863 means "instanter"; and a party to whom costs are awarded by an order may issue execution therefor on the day of the taxation.

Proceedings may be considered "interlocutory" within the meaning of Rule 1205 till satisfaction is obtained in respect of the moneys, costs, or subject-matter in controversy; and where judgment was given for payment by the plaintiff to the insolvent defendant of the costs of the action, and the defendant's solicitors were by an order declared to have a lien upon such judgment, and the plaintiff became entitled against the defendant to costs of garnishing proceedings, upon the judgment, begun before the solicitors lien was declared, a set-off was allowed.

This action was in the Queen's Bench Division; but the plaintiff, in applying in respect to the costs of writs of *fi. fa.* and a set-off of costs, entitled his proceedings in the Chancery Division and "in the matter of certain orders made in the action."

Held, that this was formally wrong; but an amendment was allowed on payment of costs.

S. R. Clarke, the plaintiff in person.

A. H. Marsh, Q.C., for the defendant.