

DISCOVERY—DOCUMENT TENDING TO CRIMINATE—OBJECTION TO DISCOVERY, HOW TO BE TAKEN—"OTHER PARTY,"—Ord. xxxi. r. 12—Ont. Rule 439.)

In *Spokes v. The Grosvenor and W. E. Ry. Hotel*, (1897) 2 Q.B. 124, the Court of Appeal (Smith and Chitty, L.JJ.) determine that where in an action brought by a shareholder against the company, the directors and another shareholder, alleging a conspiracy to defraud the company, and that the company had been defrauded thereby, and claiming damages, it is no answer to an application for discovery by the defendants, nor a ground for setting an order for discovery against them aside, that the discovery may tend to criminate them. Such an objection must be raised by oath in answer to the order. Also that the defendant company was in such a case "another party," and liable to be ordered to make discovery on the application of the plaintiff under ord. xxxi. r. 12 (see Ont. Rule 439.)

STATUTE OF LIMITATIONS—MORTGAGE—PERSON CLAIMING UNDER MORTGAGE—MORTGAGE AFTER STATUTE HAS COMMENCED TO RUN AGAINST MORTGAGOR—REAL PROPERTY LIMITATION ACT, 1837 (7 W. 4. & 1 VICT., c. 28.)—(R.S.O. c. 111, s. 22).

*Thornton v. France* (1897) 2 Q.B., 143, deals with a question recently discussed in this Journal (see ante pp. 93, 181, 219), viz., the effect of the Statute of Limitations upon the right of a mortgagee whose mortgage is executed after the statute has begun to run against his mortgagor. The facts of the case were as follows: In 1886 the owner of an undivided moiety of the land in question, which had, during the previous eleven years, been in the sole possession of the owners of the other moiety, mortgaged his moiety; and in 1890, the premises having in the meantime continued and being still in the possession of the owners of the other moiety, he executed a conveyance of his moiety subject to the mortgage, to the plaintiff, who subsequently paid off the mortgage. The action was brought claiming a declaration that the plaintiff was entitled to an equal undivided moiety of the premises, and the defendant relied on the Statute of Limitations. The Court of Appeal (Lord Esher, M.R., and Smith and Chitty, L.JJ.) affirming the judgment of Grantham, J.—though not