

PAYMENT INTO COURT—INTERLOCUTORY MOTION—ADMISSION BY DEFENDANT.

In re Benson, Elletson v. Pillers (1899) 1 Ch. 39, the defendant had sold certain shares and received the proceeds; the shares were claimed by the plaintiff to have been his property, and he claimed to be entitled to the proceeds, which the present action was brought to recover. Before the trial the plaintiff applied on motion to compel the defendant to pay the proceeds of the sale into Court. The defendant admitted the sale and receipt of the proceeds, but he deposed: "Before any question was raised as to the transfers, I in good faith paid away and disposed of the purchase money, in the belief that I was entitled thereto, and no part thereof is now in my hands, and I have no power over the shares or any of them"; North, J., was of opinion that, as the defendant had failed to swear that the purchase money was not under his control, as he had done in regard to the shares, his affidavit was insufficient, and he ordered him to pay in the money within a month.

DISCOVERY—PRODUCTION OF DOCUMENTS—PRIVILEGE—PRACTICE.

Goldstone v. Williams (1899) 1 Ch. 47, is a decision of Stirling, J., on a question of practice. The point arose on an application by defendants to compel the plaintiff to produce certain documents for the purpose of discovery. The documents in question were (1) certain accounts prepared under the plaintiff's solicitor's direction for the purpose of a previous suit brought by the plaintiff against another party, and (2) the depositions of such other party taken in the former action, and in which the accounts above referred to had been exhibited to the deponent and marked as an exhibit. Stirling, J., held that the accounts in question were originally privileged as being documents prepared for the plaintiff's solicitor for the purpose of litigation; that, although this privilege had been waived by the production of the accounts to the defendant in the former suit, yet it had not been waived as against all persons, and, notwithstanding the waiver of privilege in the former suit, the plaintiff was still entitled to claim that they were privileged from production in the present action: but as regards the depositions, he was of opinion that they had been filed in court and had become publici juris, and no privilege could be claimed for them, and the defendants were therefore entitled to production thereof.