

Prac. Cases.]

NOTES OF CANADIAN CASES.

[Prac. Cases.]

Boyd, C.]

[Dec. 23.]

BARKER V. WESTOVER.

Married woman—Tort—Judgment—R. S. O. c. 125, ss. 6, 20.

The plaintiff obtained a judgment directing an account to be taken of rents and profits of plaintiff's lands wrongfully received by a married woman and her husband. The Master reported a sum of \$205 to have been received by them.

Held, that the claim being founded on a tort of the married woman, the plaintiff was entitled to judgment against her personally for the amount found due, without reference to her separate estate.

Held also, that the married woman could not be presumed to have acted under the compulsion of her husband, that if such were in fact the case it should have been set up as a defence.

Held also, that in an action against a married woman founded on tort, it is unnecessary to allege that she has separate estate.

J. Bain, for petitioner.

Langton, for respondent.

PRACTICE CASES.

Mr. Dalton, Q.C.]

[Nov.]

HENDRIE V. NEELON.

Examination before trial—Witness.

An order for the examination of a witness before trial will not be made under rule 285, O.J.A., on the ground of discovery alone; some other special ground must be shown.

Eddis, for the application, cited *Turner v. Kyle*, 18 C. L. J. 402.

Order refused.

Mr. Dalton, Q.C.]

[Nov. 7.]

LLOYD V. WALLACE.

Garnishment—Equitable debt.

The plaintiff recovered a judgment in ejectment against the defendant on 20th November, 1880, and taxed her costs at \$107.04.

Writs of *fi. fu.* issued and remained in the sheriff's hands unsatisfied.

The defendant's father, by his will, vested certain property in sureties, and directed them "to pay my son, Archibald Wallace, (the defendant)

the interest of the sum of \$800, annually, during the term of his natural life." The trustees, as directed by the will, invested the \$800, and interest on the sum becoming due in January, 1883.

On 14th October, 1882, *Black*, for plaintiff, obtained a summons calling upon trustees to show cause why the moneys in their hands should not be attached to answer the plaintiff's claim.

The Master in Chambers, following *Re Cowans*, L.R. 4 Chy. D. 638, approved of in *Leaming v. Woon*, 7 O. A. R. 42, made an order directing the trustees to pay the interest, from time to time accruing due, in satisfaction of the judgment debt.

Mallory, for trustees.

Gould, for defendant.

Mr. Dalton, Q.C.]

[Dec. 13.]

LAWSON V. CANADA FARMERS' M. INS. CO.

Writs of Fi. Fa., renewal of

Writs of execution were issued on the 12th December, 1881, and forwarded, with instructions, to sheriff.

On the 9th December, 1882, the plaintiff wrote the sheriff to forward the writs for renewal, and on the 11th December telegraphed him to the like effect, and he replied that he had just mailed them. On the same day the plaintiff filed a *præcipe* requiring this renewal.

The writs were received on 12th December.

Symons, for plaintiff, moved for an order for leave to renew *nunc pro tunc*.

THE MASTER IN CHAMBERS:—I do not see that this is the fault of the sheriff or other officers of the Court. It is rather, I should suppose, that the application for the return, for the purpose of renewal, was delayed a little too long. It seems a case where there is no power to make the amendment. See *Clarke v. Smith*, 2 H. & N. 753; *Nayer v. Wade*, 1 B. & S. 728; L. R. 3 Q. B. D. 7.

Mr. Dalton, Q.C.]

[Dec. 13.]

BEATY V. BRYCE.

Costs—Interpleader.

The plaintiff in a suit of *Bryce v. Scarborough Hotel Co.*, brought in the Chancery Division, recovered judgment for an amount entitling him to costs on the higher scale. Proceedings were