

under the garnishing order. An interpleader issue was directed in which the garnishing creditors were made plaintiffs, and the execution creditors, defendants. At the trial, the execution creditors proved the writ of execution, but did not prove the judgment, and the evidence was conflicting as to whether the property in the goods passed to W. on 30th December, the day of sale, or on 3rd January, the day he took possession.

*Held*, that the property in the goods was not taken out of the debtors by the distress, and the placing of the execution in the sheriff's hands bound the goods subject to the distress.

The sheriff may make a qualified seizure subject to the distress, which will be binding upon the execution debtor and those claiming under him.

*Belcher v. Patten*, 6 C. B. 608, followed.

*Held*, also, that the purchase money was owing to the landlord or his bailiff only and that there was no privity between the purchaser and the judgment debtor, and no attachable debt owing from the purchaser to the judgment debtor.

*Evans v. Wright*, 2 H. & N. 527, and *Yates v. Eastwood*, 6 Ex. 805, followed.

*Held*, also, that the money having been paid into court under the garnishing order, the garnishing creditors had a *prima facie* claim upon it, and notwithstanding the form of the issue, the *onus* was on the execution creditors to prove their claim.

*Held* also, that the right of the second execution creditors to the money, depended wholly on the

time when the property in the goods passed to the purchaser, and as the evidence was conflicting and uncertain, there should be a new trial upon that point.

*Held*, also, that it was necessary for the second execution creditors to prove, as against third parties, a judgment as well as an execution.

A new trial was directed, without costs to either party.

*Per KILLAM, J.*—The second execution creditors having failed to prove their judgment, should pay the costs. *Macdonald v. Cummings* . . . . . 406

*Writ of execution*—*Erroneous statement therein of date of judgment*—*Validity thereof*—*Irregularity*—*Amendment*—*Duty of sheriff*—*Obstructing sheriff's officer*.

See CRIMINAL LAW, 2.

## EXTRADITION.

*Warrant of committal*—*Form of*—*Information*—*Amendment of*—*Duplicity*—*Order in Council*—*Proof of*—*United States*—*Local law of one State*—*Corroborative evidence*.]  
—Judicial notice will be taken of Orders in Council published with the Dominion Statutes pursuant to R. S. C. c. 2, s. 9.

*Re Stanbro*, 2 M. R. 1, followed.  
A warrant of committal, under the Extradition Act, of a fugitive to await surrender to the foreign State, after reciting the apprehension of the accused, that he had been brought before the Judge, and that the Judge had determined that he should be surrendered, continued "on the ground of his being accused of the crime of forgery and also of the crime of uttering what was forged within the juris-