

on said violin for money), and being as such exempt from execution under s. 1, sub-s. (e) of c. 34 of Acts of 1885, the same was not assignable under the Collection Act.

JOHNSTON, Co. J.—The only question here is as to whether the order for the defendant to assign is correct. The Act says the debtor may be ordered to assign all his real and personal property, and exception is taken to the order in addition specifying a violin while real and personal property would be sufficient and would embrace a violin. I do not think the specifying a violin vitiates the order.

I do not think the violin is exempt from execution; it is not a tool of his trade or calling, but an instrument upon which he practised gratuitously and for his own pleasure, though occasionally he may have received pay for his services. I dismiss the appeal with costs.

## Province of New Brunswick.

### SUPREME COURT.

En Banc.]

EX PARTE KEERSON.

[June 15.

*Disclosure examination—Order in nature of mandamus.*

An order in the nature of a mandamus under section 15 of the County Court Act will not lie to compel a County Court judge to discharge a defendant on examination under 59 Vict., c. 28, s. 32. Rule discharged.

*G. Belyea, in support of rule. Allen, Q.C., and Barnhill, contra.*

## Province of Manitoba.

### QUEEN'S BENCH.

Richards, J.]

MILLER v. WESTBOURNE.

[August 30.

*Practice—Particulars in action of tort—What must be shown to get order for particulars.*

The statement of claim alleged negligence by defendants in the construction of a ditch along the highway in front of plaintiff's land and neglect to keep such ditch in repair, and that in consequence a larger quantity of water was brought on to plaintiff's land and crops than would otherwise have naturally flowed thereon. Defendants applied for an order for particulars of such negligence and of the damages resulting therefrom, upon an affidavit of their solicitor proving service of a demand for such particulars and refusal to furnish same, and stating that defendants could not prove their statement of defence without them.

*Held*, that this affidavit did not show sufficient grounds to entitle defendants to the order asked for, that special grounds must be shown, and that at least such facts must be shown as would satisfy a judge that