

three half pints, and if a certiorari were granted the court would have no power, upon a motion to quash the conviction, to review the magistrate's decision.

Colonial Bank of Australasia v. Willan, L.R. 5 P.C. 417, followed.

J. R. Cartwright, Q.C., for the Crown.

Haverson for the defendant.

Div'l Court.]

HOLLENDER *v.* FFOULKES.

[Dec. 19, 1894.

Foreign judgment—Action on—Defence—False affidavit—Fraud—Court of Appeal in England—Decision of—Authority—Practice—Reply—Demurrer—Rules 403 and 1322.

To an action on a foreign judgment the defendants pleaded that the order for such judgment was obtained upon a false affidavit, and that the plaintiffs obtained the judgment by fraudulently concealing from the court the true nature of the transactions between them and the defendant.

Held, a good defence.

Abouleff v. Oppenheimer, 10 Q.B.D. 295, and *Vadala v. Lawes*, 25 Q.B.D. 310, followed.

Woodruff v. McLellan, 14 A.R. 242, not followed.

A colonial court should follow the decisions of the Court of Appeal in England.

Trimble v. Hill, 5 App. Cas. 342, followed.

Macdonald v. McDonald, 11 O.R. 187, and *McDonald v. Elliott*, 12 O.R. 98, not followed.

To the above defence, the plaintiffs, after the coming into force of Rule 1322, replied that the defendant was precluded by law from raising any question as to the validity of the foreign judgment, which might have been raised by way of appeal in the foreign forum.

Held, that this replication was equivalent to a demurrer under the former practice, and was an admission of the truth of the facts stated in the defence, and to such a replication Rule 403 has no application.

McBrayne for the plaintiffs.

Bartram for the defendant.

Div'l Court.]

IN RE CLAIK *v.* BARBER.

[Dec. 19, 1894.

Prohibition—Division Court—Money payable by instalments with interest—Dividing cause of action—R.S.O., c. 51, s. 77.

Under an agreement for sale of land, the balance of the purchase money was payable by instalments with interest at a named rate half-yearly, and at a time when three of the instalments, amounting to \$70, and three years' taxes were overdue an action was commenced in a Division Court for the arrears of interest and two years' taxes, \$95.30.

Held, reversing the decision of BOYD, C., 25 O.R. 253, that the plaintiffs could have recovered all the purchase money and interest due when the action