

are not applicable to a married woman against whom judgment has been obtained in the Division Court; and, even if liable to be examined such a person is not liable to be committed to gaol under s. 182.

Metropolitan L. & S. Co. v. Mara, 8 P. R. 355, distinguished. A creditor's rights against a married woman debtor are determined by the statute at the time the debt is contracted, and cannot be enlarged by the debtor subsequently becoming a widow.

Held, also, following *Reg. v. The Judge of the Brampton County Court*, 18 Q. B. D. 213, that the judge's endorsement on the judgment summons was the order upon such summons and that a subsequent order was illegal.

Prohibition was ordered to restrain the enforcement of a warrant for the committal of the defendant, a married woman.

A. M. Grier, for the plaintiff.

Aylesworth, for the defendant.

C. P. Divisional Court.] [Mar. 10.]

FERGUSON v. KENNEY.

Parties—Attacking fraudulent conveyance—Assignee for creditors under 40 Vict. c. 26. (O.)—Execution creditors.

In an action to set aside a conveyance by K. to his wife as fraudulent, brought by the assignee for the benefit of creditors of K., in pursuance of the powers conferred upon such assignees by 48 Vict. c. 26, s. 7 (O.), an order was made adding certain execution creditors of K. as parties plaintiff, upon the motion of the plaintiff, who desired that the action should not be defeated if, in other litigation pending, it should be determined that the Act was *ultra vires*.

A. C. Gait, for the plaintiff.

George Kerr, for the defendant.

MacMahon, J.] [Mar. 12.]

RUSSELL v. MACDONALD.

Discovery—Examination of witness on pending motion—Production of books.

On a pending motion to restrain the defendant from receiving any monies due under a certain contract, and to appoint the plaintiff

receiver of such monies, an affidavit of the defendant's partner was filed in answer, and he was cross-examined upon it by the plaintiff. He was unable to answer a number of questions with reference to the defendant's position in regard to the partnership, because he had not with him the books of the partnership, from which alone the facts could be ascertained, and he refused to produce such books.

Held, that he should be ordered to attend for further examination, and to produce the books required, at his own expense.

In re Emma Silver Mining Co., L. R. 10, c. 194, followed.

H. W. Mickle, for the plaintiff.

Bain, Q.C., for the defendant.

MacMahon, J.]

[Mar. 12.]

GUESS v. PERRY.

Writ of summons—Amending indorsement—Reserving the writ.

The writ of summons was specially indorsed with a money demand, besides which the indorsement claimed damages for waste, etc. The plaintiff obtained an *ex parte* order, amending the indorsement by striking out the claim for damages.

Held, that judgment by default could not be entered after the amendment without re-serving the writ on the defendant.

James Smith, for the plaintiff.

C. R. W. Biggar, for the defendant.

Ferguson, J.]

[Mar. 13.]

KINCAID v. KINCAID.

Receiver by way of equitable execution—Motion for in court or chambers—Costs—O. J. Act, s. 17, ss. 8, Rule 399—Amount of judgment—Other remedies.

A motion for the appointment of a receiver by way of equitable execution is properly made in court, notwithstanding the language of O. J. Act, s. 17, ss. 8, and Rule 399, and the applicant will not be restricted to the costs of a chamber motion.

A judgment for \$212.60 is not too small to justify the judgment creditor in moving for a receiver.