

week. The defendant was examined on his affidavit, and his examination showed no defence as to that sum, and no clear defence at all to any portion of the plaintiff's claim. He desired, however, to defend for the whole.

Held, that the referee had jurisdiction to make the leave to defend conditional upon payment into court of the part of the plaintiff's claim practically admitted as security, and that his discretion should not be interfered with in this case. *Rotheram v. Priest*, 49 L.J.N.S. 104, and *Oriental Bank v. Fitzgerald*, W.N. (1880) 119, followed.

Appeal dismissed with costs.

Pitblado for the plaintiff.

Elliott for the defendant.

BAIN, J.]

INMAN v. RAE.

[May 18.

RAMSAY, Claimant.

Chattel mortgage—Affidavit of execution.

In this case it was decided, on appeal from a County Court, that a chattel mortgage was invalid and of no effect, as against the execution creditors of the mortgagor, where the affidavit of execution filed with the mortgage was defective by reason of the commissioner, before whom it was sworn, forgetting to put his signature to the jurat. The chattel mortgage had been executed in duplicate, and the witness had signed and sworn to the affidavits of execution on both originals, and the commissioner had signed the jurat on one of the originals, but not on the original filed with the clerk, whilst under section 3 of The Bills of Sale Act, R.S.M., c. 10, it is essential that a perfect and complete affidavit of execution should be filed along with the chattel mortgage, there having been no immediate delivery followed by an actual and continued change of possession of the chattels.

Judgment of Judge CUMBERLAND reversed, and verdict entered in favour of execution creditors.

Ewart, Q.C., for the plaintiff.

Culver, Q.C., for the claimant.

OSGOODE HALL LIBRARY.

(Compiled for THE CANADA LAW JOURNAL.)

Latest additions:

- Abbott, Austin, *Select Cases on Law of Evidence*, New York, 1895.
 Akins, T. B., *Selections from Public Documents of Nova Scotia*, Halifax, 1869.
 Bacon, F. H., *Benefit Societies and Life Insurance*, 2nd ed., 2 vols., St. Louis, 1894.
 Bateman, Joseph, *Law of Auctions*, 7th ed., by P. F. Evans, London, 1895.
 Beach, C. F., jr., *Law of Insurance*, 2 vols., Boston, 1895.
 Begg, A., *History of the Northwest*, 3 vols., Toronto, 1894.
 Dendy, F. W., *Duties of Executors*, 6th ed., London, 1894.