

concerning business carried on in County Court Judge is authorized wife's name—Separate property of to order the examination of judgment wife—Business in which others are debtors.

interested.]—On an examination of Where there were two judgment defendant, a judgment debtor, it debtors and the order was to examine them, "touching their appeared that a business was carried estate and effects,"

under the name of Carley Bros. Defendant's wife and his brother were partners; the capital was contributed by them in equal shares, and they alone were interested in it; none of the defendant's personal money went into the business; his wife took no part in the management except through him; he acted for her under a power of attorney; the business was managed by his brother and himself, and he received a weekly salary.

Held, that the business was not one carried on by the wife separately from the husband; she did not carry it on at all; he represented his wife's share in the business, except through him she took no part in it.

Held, also, that a sufficient case had been made to show that the husband was entitled to an interest in the profits. He was, therefore, bound to answer such questions as might be put to him respecting the profits derived from the business, and how they had been disposed of and dealt with. That others were interested was not a reason for refusing to make such discovery.

Monkman v. Robinson, 3 M. R. 640, and *Ross v. Van Etten*, 7 M. R. 598, followed. *Merchants' Bank v. Carley* 258

3. Judgment debtor—Jurisdiction of County Court Judge—Separate or firm property.]—Under section 65, the sub-section (a) of "The Queen's Bench Act," R. S. M. c. 36, a

Held, that they could be examined as to their individual estate and effects as well as to their firm or joint property. *Imperial Bank v. Smith* 440

EXECUTION.

Execution against goods—Sheriff

—*Landlord's bailiff in possession—*

Seizure under execution—Residue of

proceeds of sale—Garnishment—

Priority between garnishing creditor

and execution creditor—Effect of

sheriff seizing after seizure by land-

lord—Sale of goods—When property

passes—Interpleader—Proof of

judgment as against third parties—

New trial—Costs.]—The sheriff

under a writ of *fi. fa.* goods went

to the premises of the judgment

debtors, who were a firm of grocers,

when he found S. the landlord's

bailiff in possession under a distress

for rent, and he gave the latter a

warrant to hold for him. The

landlord's bailiff sold the goods

seized, by auction, to W. on Dec.

30th, 1891, for \$2,021. W. paid

a deposit of \$200. On 2nd Janu-

ary, 1892, M. & Co. served a

garnishing order on W. On the

morning of 3rd January, 1892, T.

McK. & Co., placed a second execution

in the hands of the sheriff.

On the evening of 3rd January,

W. took possession of the goods.

After paying the landlord and the

first execution, W. paid the residue

of the purchase money into court