

Court, they must recover upon a quantum meruit, and upon such evidence as was appropriate in the forum of litigation, in this case the Province of Ontario. *Paradis v. Bosse*, 21 S.C.R. 419, and *Armour v. Kilmer*, ante p. 29, referred to.

F. A. Anglin, for the plaintiff. *Arnoldi*, Q.C. for the defendants.

Robertson, J.]

IN RE DOWLER *v.* DUFFY.

[Dec. 27, 1897.

Division Court—Garnishee—Judgment summons—Committee—Examination—Affidavit—R.S.O. c. 51, s. 235—57 Vict., c. 23, s. 18.

The County Court Judge, presiding in a Division Court has no power to commit a garnishee for default in making payments pursuant to an order after judgment; and s. 18 of 57 Vict., c. 23, has not extended his powers in that behalf.

Before a garnishee can be examined under ss. 235 to 248 of R.S.O., 1887, c. 51, as now permitted by s. 18 above, it is necessary that the creditor, his solicitor or agent, should make and file the affidavit required by s. 235.

H. J. Duncan, for the garnishee. *Masten*, for primary creditors.

Rose, J.]

[Dec. 30.

BANK OF TORONTO *v.* INSURANCE COMPANY OF NORTH AMERICA.

Particulars—Application for—Close of pleadings—Affidavit—Necessity—Trial.

After issue joined upon the statement of defence, the plaintiff cannot obtain an order for particulars of the defence without an affidavit showing the necessity for particulars. They cannot be for the purpose of pleading, and there must be evidence that they are required for the purpose of trial. *Smith v. Boyd*, 17 P.R. 463; 33 C.L.J. 435, followed.

R. McKay, for plaintiffs. *Ryckman*, for defendants.

Boyd, C., Rose, J. }
Falconbridge, J. }

REGINA *v.* STERNAMAN.

[Jan. 3.

Criminal law—Murder—Poisoning—Design—Evidence—Admissibility—Death of former husband of prisoner.

Upon the trial of the prisoner for the murder of her husband, who was living with and attended by her in his illness, it was proved that his death was due to arsenical poisoning. In order to show that the poisoning was designed and not accidental, the Crown offered evidence to prove that a former husband of the prisoner had been taken suddenly ill after eating food prepared by her, and that the circumstances and symptoms attending his illness and death were similar to those attending the illness and death of the second husband, and that such symptoms were those of arsenical poisoning.

Held, that the evidence was admissible.

B. B. Osler, Q.C., and *J. R. Cartwright*, Q.C., for the Crown. *W. M. German*, for the prisoner.