

C. P. Div.]

NOTES OF CANADIAN CASES.

[C. P. Div.]

as under the statute R. S. O., ch. 167, sec. 11, the widow was entitled to recover the amount; and that the fact of O. being a member of another Order, did not, *ipso facto*, deprive him of his rights and membership of defendants Order. It was objected that O. had not appealed through all the courts and functionaries of the Order against the refusal to give him the Supreme Court card; but *held*, that the evidence disproved this.

At the trial an amendment was asked for, to set up a forfeiture of the policy, by reason of O. going to California without a permit, which was refused.

Held, under the circumstances, that the refusal was proper.

Quære, whether the way, cause and manner, in and for which O. and the other members of Court Maple left it, and joined in a body another rival order, might not, if properly pleaded, have required some consideration.

The frame and effect of the pleadings in this case considered.

R. M. Meredith, for the plaintiff.

Osler, Q.C., for the defendant.

NOLAN V. DONELLY.

Goods, description of—Bills of sale act—Sufficiency.

In an assignment for the benefit of creditors, the description of the goods and chattels of the assignors was as follows: "All and singular the personal estate and effects, stock-in-trade, goods, chattels, rights and credits, fixtures, book debts, etc., and all other the personal estate and effects whatsoever and wheresoever, and whether upon the premises where said debtors' business is carried on or elsewhere, and which the said debtors' business is carried on or elsewhere. and which the said debtors are possessed of or entitled to in any way whatsoever, including among other things, all the stock-in-trade, goods and chattels which they now have in their store and dwellings in the village of Renfrew aforesaid: also all and singular their personal estate and effects of every kind and nature, etc.

Held, that this was not a sufficient description of the assignors' goods within the meaning of the Bills of Sale and Chattel Mortgage Act.

Delamere, for the plaintiff.

Moss, Q.C., for the defendant.

PATTERSON V. MCKELLAR (SHERIFF).

Fi. fa. goods—Delivering to sheriff—Sale by execution debtor thereafter—Right of sheriff to goods.

The defendant, the Sheriff of Wentworth, received two executions against one M.'s goods, namely, on the 18th January and 15th February respectively. The sheriff made a formal seizure on the delivery of the first writ, but left no one in possession, and the execution debtor remained in possession and carried on his business as before the seizure, because, as he said, he had the undertaking of the manager of a bank, interested as creditors in the goods, for their safe custody. There had been a stay upon the first execution, which was withdrawn on the delivery of the second one, and the sheriff directed to proceed. On the 6th March the goods were sold by the execution debtor, in connection with the bank, to the plaintiff, who removed them to his own place of business. On the 22nd March the sheriff seized all the goods then in plaintiff's possession which he had received from the execution debtor, as also certain goods of the plaintiff which he claimed to take in lieu of goods received from the execution debtor and sold by plaintiff. The sale to the plaintiff was found to be *bona fide* and for value, and without notice of the executions. In replevin for the goods.

Held, WILSON, C. J., dissenting, that the sheriff was entitled to the goods of the execution debtor then in plaintiff's possession; but not to the goods of the plaintiff's taken by the sheriff in lieu of those sold by the plaintiff.

On the sheriff making his seizure on the 22nd March, the plaintiff gave him an undertaking to answer for all goods sold by him thereafter, if the sheriff should be held entitled to the goods.

Held, under a counter claim setting up this undertaking, the sheriff was entitled to recover the value of the goods sold by the plaintiff after the 22nd March, and before the issue of the writ of replevin.

E. Martin, Q.C., for the plaintiff.

Osler, Q.C., for the defendant.