

Boyd, C.]

PLENDEPLEITH v. PARSONS.

[Sept. 23.

*Practice—Mortgage reference—Right to cross-examine on mortgagee's affidavit—Con. Rules 490, 668-9.*

Con. Rule 490, providing for cross-examination on affidavits, has no application to proceedings in the master's office; and there is no right under it to cross-examine a mortgagee on his affidavit of debt on a mortgage reference. The master himself, however, may direct the examination of parties or witnesses under Rules 668 and 669 as he may deem expedient.

*Hislop*, for plaintiff. No one, contra.

Falconbridge, C.J.K.B.]

[Sept. 26.

RE MCEACHREN.

*Intestacy—Children of father's sister, and grandchildren of mother's brothers and sisters.*

The word "prospectively" contained in s. 37 of the Devolution of Estates Act, R.S.O. 1897, c. 129, does not exclude the operation of the Statute of Distributions 22 & 23 Car. II. c. 10, R.S.O. 1897, vol. 3, c. 335, by making ss. 38 to 55 of the Devolution of Estates Act applicable to descents subsequent to 1886, such word having reference prospectively to the period from 1852 to 1886.

Where, therefore, an intestate's father and mother were both dead, the intestate's estate consisting of real and personal property coming from neither of them, and the intestate's nearest relatives were children of the father's sister, and grandchildren of the mother's brothers and sisters, the children of the said deceased sister were held to be entitled to the exclusion of the said grandchildren.

*Foster*, *Wardrope*, and *W. B. Raymond*, for the various parties.

Cartwright—Master.]

[Sept. 26.

THEAKSTONE v. THEAKSTONE.

*Alimony—Interim—Husband's offer to pay for necessities.*

It is not a sufficient answer to a motion for interim alimony that the husband should shew that he has offered to allow the