

## Practice.

Court of Appeal.]

[June 21.

LESLIE v. POULTON.

*Summary judgment—Rule 744.*

In order to obtain the very extraordinary relief provided for by Rule 744, the plaintiff must not only make out as strong a case as he would under Rule 739, but, in addition, establish some special ground for relief. In this case the endorsement showed the plaintiff's claim to be for an amount paid as surety for the defendant, and also a sum for costs paid and interest on costs; and the plaintiff, on his application, showed that the defendant was a married woman, and that, owing to her financial affairs, the only way in which he could recover his claim was by recourse to a certain fund coming to the defendant under a mortgage held by her. The defendant set up a partnership between the plaintiff and herself, and claimed that, on accounts taken, the balance would be in her favour.

*Held*, without saying that any clear legal defence to the action had been shown, that enough appeared of the dealings and transactions between the parties to make it not unreasonable that the plaintiff should be left to his ordinary remedies for the recovery of his claim.

*Quare*: As to effect of the items in endorsement for costs and interest on costs, and as to the application of Rule 744 to actions between creditor and debtor?

Remarks on the origin and application of the rule.

*W. R. Smyth* for the defendant, appellant.

*F. E. Titus* for the plaintiff, respondent.

## Obituary.

## MR. JUSTICE PATTERSON.

The Hon. Christopher Salmon Patterson, one of the judges of the Supreme Court of Canada, died on the 24th of July last, in the 71st year of his age. Mr. Patterson was among the youngest of the large family of Mr. John Patterson, who at the time of his son's birth was a merchant in London. The family removed to Belfast, Ireland, where Mr. Patterson was in part educated at the Royal Belfast Academical Institution, of which his brother-in-law, the late Rev. Wm. Hamilton, D.D., was principal. Dr. Hamilton resigned that position to become a missionary of the Free Church of Scotland, and came to Upper Canada in 1844. He settled in Picton, and Mr. Patterson followed with the family. Here at the age of twenty-one he entered the law office of Mr. Philip Low, Q.C., and in time became his partner. Mr. Patterson soon secured a name for accurate knowledge of law, affability, and high personal character. In social circles he was the soul of wit, good humour, and kindness. In 1856 Mr. Patterson entered into partnership in Toronto with the late Sir Adam Wilson and Mr. James Beaty, Q.C. The Hon. Robert Baldwin had been