

Full Court.]

[March 27.

B. C. MILLS LUMBER AND TRADING CO. v. MITCHELL.
WALKER, Garnishee, and CHAMPION & WHITE, Claimants.

Money order—Indorsement of—Parol Assignment—Interpleader.

Defendant, under contract to build for one W., purchased the materials from plaintiffs who subsequently got judgment against him, and who garnished the moneys due from W. to defendant under the contract. Moneys due the contractor were to be paid on the certificate of the architect Grant. Before the garnishee proceedings defendant had accepted the following order drawn upon him by Nicholas & Barker to whom he was indebted on a sub-contract: "Please pay to Champion & White the sum of \$270 and charge the same to my account for plastering Place Block, Hastings Street, W., in full to date;" which order the defendant thus indorsed in favour of Grant: "Please pay that order and charge to my account on contract for Robert Walker Block on Hastings Street, City."

Held, in interpleader, by the full Court, affirming McCOLL, C.J., that apart from the order there was a parol assignment specifically appropriating to the assignees the sum in question out of the moneys to arise out of the contract.

Per WALKER and DRAKE, JJ.: The document is a money order or bill of exchange and not an equitable assignment.

Davis, K.C., for appellants. *Martin*, K.C., contra.

Irving, J.]

DAVIES v. DUNN.

[April 16.

Practice—Ex juris writ—Action to rescind purchase of shares in mining company—Order XI.

Application on behalf of defendant Dunn to set aside an order of FORIN, L.C.J., for service ex juris and notice in lieu of writ and the service thereof.

Held, setting aside the order, that an action to rescind purchase from defendant of shares in an incorporated company on the ground of misrepresentation, is not an action within Order XI., so as to enable the plaintiff to obtain an ex juris writ against the defendant.

Marshall, for application. *Charles Wilson*, K.C., contra.

Martin, J.]

IN RE OLIVER.

[May 7.

Succession duty—Amount payable by half-sister of testator.

Summons to determine the amount of succession duty payable by applicant who was a half-sister of the testator and a devisee under his will.

Held, that the words "sister of the deceased" in sub-s. 4 of s. 2 of the Succession Duty Act Amendment Act of 1899, do not include a half-sister.

Moresby, for the summons. *Maclean*, D. A.-G., for the Crown.