

Teetzel, J.]

FRASER v. HAM.

[April 18.

Prohibition—Division Court—Trial by jury—Claim under \$20—Counter claim over \$20.

Plaintiff sued in a Division Court for \$14 for rent; and defendant besides filing a dispute notice counter claimed for \$60 damages and asked for a jury but the County Judge refused to place the case on the list for trial by jury. On an application for prohibition,

Held, that the filing of the counter claim did not entitle the defendant to have the plaintiff's claim tried by a jury, but that section 160 of the Division Court Act R.S.O. 1897, c. 157 did entitle him to that right in respect to his counter claim: and prohibition as to the latter was directed to issue subject to the right of the judge to order that the counter claim be the subject of an independent action under Division Court Rule 108.

John Greer, for the motion. *Frost*, contra.

Idington, J.]

BANK OF HAMILTON v. SCOTT.

[May 4.

Judgment creditor—Examination of judgment debtor—Assignment for benefit of creditor.

The fact that the judgment debtor made before judgment obtained assignment for the benefit of his creditors, and was examined under such assignment under the provisions of R.S.O. 1897, c. 147, does not deprive a judgment creditor, after obtaining his judgment, of the right to examine him under Con. Rule 900.

Rose, for plaintiff. *Kilmer*, for judgment debtor.

COUNTY COURT—LEEDS AND GRENVILLE.

REX v. WENDLING.

Liquor License Act—Resolutions of License Commissioners—Unreasonableness—Ultra vires.

Held, that a resolution of License Commissioners against erecting or allowing to remain erected screens, blinds or other obstructions preventing a view of the bar room from the public street, and imposing a penalty of from \$10 to \$50 for every day which it was allowed to remain is ultra vires of the License Board, inasmuch as the penalty was in excess of the powers of the License Board, and because it was unreasonable.

[Brockville, July 28, 1903. McDONALD, CO. J.]

Appeal from a conviction made by Joseph Deacon, Police Magistrate, for the town of Brockville, on June 30, 1903. The defendant was tried for a breach of a resolution of the License Commissioners, providing that "there shall be no screen, blind, unnecessary partition, or other obstruc-